

THE PROCEEDINGS  
*of*  
THE SOUTH CAROLINA  
HISTORICAL ASSOCIATION  
1942

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§

The South Carolina Historical Association supplies *The Proceedings* to all its members. The Executive Committee elects the Editor. Beginning with 1935, every fifth number contains an index for the preceding five years. The price of *The Proceedings* to persons not members of the Association is \$1.00 per copy. Orders should be sent to the Secretary-Treasurer, 1501 Lady Street, Columbia, South Carolina.

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JAMES W. PATTON  
*Editor*

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THE SOUTH CAROLINA  
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## THE TWELFTH ANNUAL MEETING

The twelfth annual meeting of the South Carolina Historical Association was held at the Francis Marion Hotel in Charleston on April 18, 1942. J. Mauldin Lesesne, President of the Association, presided.

At the morning session papers were read by John Harold Wolfe on "The South Carolina Constitutional Convention of 1865," and by Clarence McKittrick Smith, Jr., on "William Porcher Miles, Progressive Mayor of Charleston, 1855-1857." Charles E. Cauthen and Granville T. Prior discussed the respective papers of Mr. Wolfe and Mr. Smith.

Two papers were again presented at the afternoon session: "Salient Attributes of Bodin's Theory of Sovereignty," by Charles N. Sisson, and "Sources for South Carolina History in the Nation's Capital," by Maxcy R. Dickson.

The annual business meeting of the Association was held immediately following the afternoon session. The Treasurer's report was read and accepted. The President called attention to the fact that a number of back files of the *Proceedings* had been sold during the past year, and suggested that the members should attempt to make other sales. Officers chosen for 1942-1943 were: President, Richard G. Stone; Vice-President, Ottis C. Skipper; Secretary-Treasurer, Miss Nancy McIntosh; Executive Committee member, C. M. Ferrell. James W. Patton was re-appointed as Editor of the *Proceedings*. Upon motion by William A. Foran, the Association empowered the Executive Committee to discuss and decide upon the feasibility of having the papers mimeographed and distributed at least two weeks before the annual meeting, so that more emphasis might be placed upon the discussions following the reading of papers. The President thanked J. Harold Easterby and Ottis C. Skipper for making arrangements for the meeting.

At the evening session Fletcher M. Green of the University of North Carolina read an interesting and scholarly paper on "Writing and Research in Southern History."

N. McG. McL.



## WRITING AND RESEARCH IN SOUTHERN HISTORY

FLETCHER MELVIN GREEN  
*University of North Carolina*

History and historical research occupy a position of primary importance in the study of human society and civilization. History deals with the totality of man's experience in the past—all he did, thought, and attempted—it is, therefore, as many sided as life itself. History is one of the oldest branches of knowledge and yet one of the youngest; while it is concerned with the past, the past never stays put, but is always encroaching on the present. History, as the first of the social sciences to become an organized body of knowledge, makes contributions to the other social sciences in subject matter, methodology, and point of view. Strictly speaking, history has no content of its own; it is rather a method of inquiry.

The essence of historical research is to find, collect, classify, and interpret data relating to man's past. Inquiry into origins of human society, bringing to light new facts, the comparison of data, the interpretation of the past so as to give a clear understanding of the history and theories of institutions and ideas are all a part of life and civilization; and the historian should be concerned with this task. The historian should be concerned also with making history realistic and true to life. And if he had been, Mr. Dooley could not have truthfully said: "I know histry isn't thrue, Hinnessy, because it ain't like what I see ivry day in Halsted Sthreet. If any wan comes along with a histry iv Greece or Rome that'll show me th' people fightin', gettin' dhrunk, makin' love, gettin' married, owin' th' grocery man an' bein' without hard-coal, I'll believe they was a Greece or Rome, but not befure. . . . Th' other kind iv histry is a post-mortem examination. It tells ye what a counthry died iv. But I'd like to know what it lived iv."

Research has a direct bearing on teaching. Without attempting to define further either research or good teaching it may safely be said that they reënforce each other in the advancement of knowledge and the well-being of society. Although separate in technique, they are interdependent processes in educational development, each enriching the other. Certainly "research is a resource of the teacher. There is a sense of reverent humility in him who has to dig in the sources for his own facts and ideas. There is often a contagious enthusiasm communicated to the students by the teacher who comes fresh from the mine bringing the ore in the hands that dug it out.

Research on the part of the teacher in . . . [history] deepens the content and insight of the teacher and makes available fresh resources for other teachers; develops the scholarly research spirit in many students, and thus widens the association and the interchange of the ideas of teachers and scholars around the earth who, by their patient discovery and teaching of truth, are doing their hopeful bit toward the gradual making of a better world."

But research in history has values apart from teaching. Had not James Madison, through patient and thorough research in the ancient democracies, the British constitutional system, and the colonial governments, become familiar with the principles of federalism and democracy the Constitution of the United States would unquestionably have been vastly different.

Historical research and integrated thinking are desperately needed today. The recent depression and the present world conflict, taking their toll in human suffering and human lives, can be understood only after research in their origins and development. Nor can solutions to such devastating conflagrations be found without patient and thorough research combined with honest and profound thinking. From historical research must come the "findings and thinking which will become the basis for a more intelligent understanding, guidance and control of the processes, out of which come wars and depressions."

Research in Southern history may be far removed from such questions as the great depression and the Second World War, but it is not without some relationship. While the part cannot equal the whole, yet the whole must include all its parts. Regional, state, and even local history have their place in research. One of the great German medieval historians set himself the task of becoming so intimately acquainted with the little town of Treves that he might, if suddenly transported to that town on any day or year, walk down its streets and converse knowingly with the people about their daily life. Such thorough and intimate knowledge, he contended, was necessary if he were to understand the general history of the Middle Ages. And so it is with general United States history. If one is to understand it he must also know the history of its component parts, the South as well as the North, the East, and the West.

But what is the South one may ask. How shall it be limited? Is it the eleven states that seceded in 1860-1861 to form the Confederate States of America? Or does it include also the border slave states of Maryland, West Virginia, Kentucky, and Missouri, together with the newer state of Oklahoma? No sooner does one begin to study the South as a region or a section of the United States than one finds



that he is faced with an almost unanswerable question as to territorial limits. If he excludes the border states he finds dissatisfaction, and if he includes them he is criticized. The difficulty here is largely due to the fact that the Southern states never existed as a separate political entity, except for the abortive effort of the 1860's. Once the student has decided upon "the territorial limits of the South" he is faced by another dilemma: there is no unity in his South. Tennessee and Florida, Virginia and Texas are not the same; and some parts of the Southern states are more like the Middle Atlantic or the Mid-Western States than they are like each other. Geographically the South refuses to stay "put"; there is not one South but many.

How then is the South to be defined? In terms of characteristics, such as "rural," "agricultural," "Negro chattel slavery," "speech," "climate," "staple crops"? But these also vary widely from one Southern state to another. Just what was and is the South? What gave it greater unity and more distinctive qualities than any other region in the United States? Ulrich Bonnell Phillips found it in white supremacy, Avery O. Craven in Negroes and rural English tradition. There is, however, no generally accepted answer to this question.

Not one factor but a combination of several forces began about 1830 to foster Southern solidarity or Southern nationalism. Among these factors was the character of the population. While the Southern colonies were settled by many groups—English, German, Scotch, Irish, French Huguenot, Jews—the dominant strain was English, and after about 1750 relatively little foreign blood was added. During the next seventy to one hundred years the people of the Southern states became a closely knit, homogenous group. They thought of themselves as Anglo-Saxon and boasted of the purity of their blood. As these people spread into the lower South and Southwest they tied those areas to them. Family ties between the lower South and the upper or older South were a major factor in the solidarity of the antebellum South.

Another factor in Southern unification was the plantation-slavery regime, based on climate, soil, staple crops, and controlled Negro labor. While there were comparatively few planters, the plantation was the goal of most of the whites. The way to social position, wealth, and leadership was through the plantation and most farmers hoped to become planters. Furthermore the plantation system tied the people together economically. The small farmer with a surplus of corn, peas, beans, apples, and other produce found his market with the planters; the live stock raisers sold to the planter; and the mountaineer sold his surplus fruits, vegetables, and crude manufactures to the Piedmont and low country planters.



The system of local government, based on the county and county court gave political unity to the South. Whether the state were Whig or Democrat the county court and local politics were generally found in the hands of the well-to-do planters. The state legislature was a planter county court "writ large," and so were the county and state political conventions. The small farmer naturally looked to the planter for leadership. And if a young man of the yeoman group displayed ability it was not unusual, but quite general, for the planter group to assist him in his training and thus gain a recruit for their forces.

Slavery, which should have divided the whites since only a small minority was directly interested, actually served to unify the Southern people. It was a partial index to wealth and social position; it was profitable, at least to some; it added to the political strength of the state in national affairs; and it gave the poor white and "poor white trash" a feeling of superiority to the Negro. Finally when the Northern abolitionists began to attack the institution of slavery they drew no distinction between the institution and the slave- and non-slave holder but attacked the institution, the whites, and the South indiscriminately. Consequently all classes of whites began to defend and champion slavery and the Southern social system. Few Hinton Rowan Helpers were found in the South; those who could not and would not conform left or were driven out.

Lastly we need to consider the philosophy—political, social, and economic—enunciated by such men as Thomas R. Dew, James H. Hammond, Chancellor William Harper, George Fitzhugh, William A. Smith, Henry Hughes, William Gilmore Simms, Benjamin M. Palmer, and others. Most of these publicists were professional men—teachers, preachers, lawyers, and doctors. They denied the Jefferson doctrine that all men were created equal; they maintained that in all societies there was a division of workers from the upper classes, and pointed out that in the South the black race constituted the workers whereas the whites constituted the upper class or free men. This was better for both groups. The workers had no political rights, were not educated, and played no part in the social and cultural life, but they did have social security. The whites—the freemen—exercised political rights, had the privilege of an education, and contributed to the social and cultural advancement of society. They might or might not work as circumstances might dictate. From the freemen came the leaders—lawyers, preachers, educators, doctors, and statesmen. Theoretically and actually it was a leadership of the fit, the able, the trained, although it might be drawn largely from the wealthy, leisure class. Such a social order produced the best of democratic government and society. This philosophy was preached

from almost every pulpit, professor's chair, and rostrum of the old South. Most of the people found it good and consciously and willingly accepted the leadership of the planter class. All these things and others solidified the people and produced Southern unity and nationalism.

But whatever gave unity and distinctiveness to the South, it has a history that needs to be studied and written. Southerners have long maintained that the South has not had its proper place in the history of the United States. William Gilmore Simms wrote in 1850: "Much of the insolence of Northern aggression, at this moment, is derived from the conviction, which they owe to their false histories, that the South is indebted to them for rescue and protection, in past times, and cannot possibly sustain itself without them now." Writing in 1860, J. W. Morgan of Virginia said: "A very large proportion of the histories used in our schools . . . are filled with praise and glorification of the first settlers of the New England and Northern States generally, as a set of incorruptible patriots, irreproachable moralists, and most exemplary models for future imitation. . . . On the other hand, the individuals, who organized society in the Southern States, are pictured as a race of immoral reprobates, who have handed down all their vices and evil habits to their descendants of this day." Another Southerner of the eighteen fifties asked: "What is to be done with geographies that tell pupils [that] 'States are divided into *towns* and counties' as if, out of New England, the use of town was synonymous with parish, district or township . . . [What is to be done with histories] that devote *two* pages to Connecticut onions and broomcorn, and [only] ten lines to Louisiana and sugar . . . [and are totally] silent about Texas?"

The present generation of Southerners also claims that the text books in United States history, nearly all of which are written by Northerners, so emphasize New England and ignore the South that school children are led to believe that the first permanent settlement was made at Plymouth rather than at Jamestown—or should we say, because of the Dare Stones, from Roanoke Island to Atlanta, Georgia; they maintain that children falsely learn that representative self-government began in Massachusetts rather than in Virginia; that Doctors W. T. G. Morton and Horace Wells rather than Doctor Crawford W. Long of Georgia first began the use of ether as an anesthetic; that John Ericsson developed the iron-clad and that John M. Brooke of Virginia deserves no credit; and so on *ad infinitum*. Frank Hough, a county superintendent of schools in Mississippi, complained in an article published in 1925 that the text book, then in use in Mississippi, written by Albert Bushnell Hart of Harvard



University, did not even mention Brooke much less give him credit for the iron-clad. And Avery O. Craven, University of Chicago professor of history but a North Carolinian by birth, in 1930 lamented the fact that "The South has been neglected or even misrepresented, and too many of those who teach American history in [the North] . . . are quite ignorant of how the other half has lived."

Northerners too recognize the truth of many of these criticisms. When Georgia born William H. Kilpatrick, professor of education at Columbia University, spoke to the editor of Monroe's *Cyclopaedia of Education* of the omission of Southern leaders and Southern subject, the editor replied: "I know the weakness you name, and I did all I could to remedy it. I searched everything that has appeared in print for every available scrap of information. I put in all I could find." And Claude G. Bowers, author of several works in United States history, said in 1930: "For generations it has been observed by the cautious student of history that the historians have given undue emphasis to the East, and particularly to New England, to the neglect of the South . . .; and that the result has been a lopsided, and unintelligent interpretation and appraisal of American history. . . . New England statesmen have been made all but sacrosanct and the most important leaders of the South . . . have been dismissed lightly, and not infrequently with some flippancy."

We recognize of course that general United States history from the days of George Bancroft to the present has been written largely by Northern historians. The history these men wrote bore the imprint of their own background and training—as all history bears the imprint of the historian, black or white, Northern or Southern, Catholic or Protestant—but they did not consciously distort facts nor voice sectional views. They wrote what they found in their sources. If their pictures are unbalanced and unsound, they are so because the South had not preserved and made available the materials for writing its history. If Southerners want the South to have a proper place in national history they must both gather and make available Southern materials and write their local, state, and regional history. They must do this not as defenders of the South nor as partisans, but as historians who know the facts. And they should have a certain advantage in that they are already orientated, have a feeling for and an understanding of the field. Certainly the native would have an advantage over an "Outlander." But at the same time the Southerner should not attempt local or regional history divorced from (or independent of) national history, for it cannot be correctly portrayed as a separate and independent study. Neither should the Southerner judge whether his state or section was right or wrong, whether his leaders were saints or sinners.



What, one may ask, has been done toward writing the history of the South? During the 1850's, when Southerners first began to complain that the South did not have its proper place in written history, William Lowndes Yancey said "as for our history, we have made about all that has glorified the United States." In other words Southerners maintained that they had been so busy making history that they found no time to write it. After the Civil War they were so busy for a generation making a living that they had no time to gather materials or write history. They did find time, however, in 1876 to organize the Southern Historical Society that published forty-eight volumes of *Papers* bearing on the Lost Cause. It was not until about the close of the nineteenth century that any real scientific historical interest was manifest in the South. Let us trace briefly what has been done since that time.

In a paper published in 1889, William P. Trent of the University of the South said that while there were historical societies in all but three of the Southern states they had practically no financial support and had brought together few historical collections of any significance. He found that he could list all the "monographs and treatises" on the South in two short paragraphs. He lamented the fact that there was "no overwhelming zeal for historical studies in the South." In conclusion he said: "Is it not apparent then that we should all do what we can to speed on the good work of collecting materials and otherwise preparing the way for the future historian of the South? For my own part, I care not from what state or section he comes, provided he come quickly."

But the historian did not come quickly. Stephen B. Weeks, speaking before the first annual meeting of the Southern History Association in 1896, said that "the publication of sources by our Society and by the states is the kind of work most needed in the South today. Such publication will cause the rise of a new generation of scholars who, free from many of the prejudices of their elders, will come to the subject of investigation with that passion for truth which characterizes the modern school." He pointed out that a bibliography of all the publications of all the historical societies of all fifteen Southern states for 1890-1892 covered only thirty-eight pages while Pennsylvania alone required forty-four pages, New York fifty-five, Massachusetts one hundred and fifty-five, and the little state of Rhode Island thirteen pages. At that time only three Southern states had published their colonial records, and only two their statutes at large; and only six states had historical society libraries. In fact the best historical collections in the South were then in the hands of private individuals; such for instance as those possessed by Thomas M. Owen of Alabama; Reuben T. Durrett of Kentucky;

Yates Snowden of South Carolina; and Thomas M. Pittman and Stephen B. Weeks of North Carolina.

Even the colleges were doing little in 1896 to further historical scholarship if we may judge by their faculties. In all the colleges of the Southern states there were only twenty-two teachers of history. There were also ninety professors who combined history with other subjects. Among the combinations were "Elocution, reading, and history"; "History, composition, English literature, and drawing"; and "Homiletics, history, rhetoric, and English literature."

There were signs of promise, however. Several publication ventures of historical importance were getting under way. Among them were the *William and Mary College Quarterly*, edited by Lyon G. Tyler; the *Virginia Magazine of History and Biography*, edited by Philip Alexander Bruce; the *South Carolina Historical and Genealogical Magazine*, edited by Alexander S. Salley, Jr.; *The Quarterly of the Texas State Historical Association*; the *Publications of Atlanta University* (1896-1917); and the short lived *Gulf States History Magazine* published from 1903 to 1907. The two important literary journals, the *Sewanee Review*, founded in 1892 by William P. Trent, and the *South Atlantic Quarterly*, founded by John Spencer Bassett in 1903, also deserve mention. Stephen B. Weeks published his *Historical Literature of North Carolina* in 1895, the first bibliographical guide for any of the Southern states. It was followed in 1896 by one on Texas, prepared by Judge W. C. Raines. Furthermore, the Southern History Association was organized in 1896 and began in 1897 its *Publications*, twelve volumes of which were published. Works of several distinguished Southern historians were also published about the turn of the century. General Edward McCrady, the first Southerner to be elected a vice-president of the American Historical Association, published *The History of South Carolina Under the Proprietary Government, 1675-1719*, in 1897, the first of his important series of volumes on South Carolina. Philip Alexander Bruce of Virginia published his two volumes, *Economic History of Virginia in the Seventeenth Century*, in 1896. Charles Colcock Jones, whom Bancroft called the Macaulay of the South, Alceé Fortier of Louisiana, Colyer Meriwether, editor of the *Publications* of the Southern History Association, and Theodore D. Jervay are others whose works are of importance. As a result of this new interest and effort the Southern Historical Publication Society published in 1909 the twelve volume *The South in the Building of the Nation*. The editors of this work declared that the "multiplication of detached works on state history and the publication . . . of valuable archives and monographs," together with the



"widespread interest in Southern history," demanded a "comprehensive and authoritative work" on the South.

The first two decades of the twentieth century brought remarkable progress in the development of historical commissions and societies, the collection of materials, the publication of sources, the establishment of historical reviews, and the publication of monographs and special studies devoted to Southern history. Time permits only a few examples and illustrations. The North Carolina Historical Commission, under Robert D. W. Connor, later first Archivist of the United States, was doing a work comparable to that of the best of the Northern state commissions. And Alexander S. Salley, Jr., of South Carolina, Thomas M. Owen of Alabama, and Dunbar Rowland of Mississippi did notable work in the collection of historical materials in their states. The state historical societies and commissions of Alabama, Arkansas, Louisiana, Maryland, Missouri, Mississippi, North Carolina, South Carolina and Virginia published many volumes of valuable historical documents. At the Virginia State Library was brought together one of the most valuable collections of archives to be found in the nation, that of the Library of Congress only excepted. The state of North Carolina completed her twenty-six volume set of *Colonial and State Records* in 1906; and Georgia published in 1904 her *Colonial, Revolutionary, and Confederate Records* in twenty-five, three, and six volumes respectively. Such special publications as the *Historical Papers* of the Trinity College Historical Society, the Randolph-Macon College *John P. Branch Historical Papers*, *The James Sprunt Historical Studies* of the University of North Carolina, and the North Carolina *Booklet*, and the *Filson Club Publications* are of considerable merit. Ulrich Bonnell Phillips, *Plantation and Frontier*, 2 vols., published in 1909, was particularly significant. William K. Boyd and Robert Preston Brooks published their *Select Bibliography and Syllabus of the South, 1584-1876*, in 1918. *A Bibliography of Virginia* in three volumes and the *Catalogue of the Wymberley Jones De Renne Georgia Library* in three volumes are examples of the better and more comprehensive guides and bibliographies of Southern states. During these years several state historical societies, including those of Georgia, Kentucky, Louisiana, Maryland, Missouri, and North Carolina, began to publish historical journals. Not to be overlooked is the *Journal of Negro History* begun in 1917. Among the Southern historians who attained distinction and recognition for the merit and scholarship of their publications were John Spencer Bassett, William K. Boyd, William E. Dodd, W. E. Burghardt Du Bois, Walter Lynwood Fleming, James W. Garner, J. G. deRoulhac Hamilton, Benjamin B. Kendrick, Charles W. Ramsdell, and Nathaniel W. Stephenson. As a



result of the great spurt of historical interest and research during these years it took E. Merton Coulter some fifty-two pages to chronicle the historical activities of the South during the years from 1917 to 1921.

During the decade of the 1920's even greater progress was made in the study and writing of Southern history. By 1930 more than forty colleges in the Southern and Mid-Western states were giving specialized courses in the "History of the South." And a steady stream of books, monographs, and special studies dealing with the South were issuing from the presses, two of which, that of Duke University and that of the University of North Carolina, have since won national recognition chiefly for their publications in this field. This stream of books by both Northern and Southern writers, but chiefly by the latter, was soon to reach flood tide. New historical journals of importance were also established in the South during the twenties. Among them were *Tyler's Quarterly Historical and Genealogical Magazine* (1920); *Florida Historical Quarterly* (1921); *Social Forces* (1922); and the *Virginia Quarterly Review* (1921). Yet, if we may believe one of the most severe critics of the South, it was all worthless. Henry L. Mencken said that "... for all its size and all its wealth and all the 'progress' it babbles of, it [the South] is almost as sterile, artistically, intellectually, culturally, as the Sahara Desert." He says if Robert Loveman and John McLure are excluded the South did not have "a single poet above the rank of a neighborhood rhymester"; James Branch Cabell excepted, there was not "a single Southern prose writer who can actually write." Of critics, musical composers, painters, sculptors, and architects "there is not even a bad one between the Potomac mud-flats and the Gulf. Not an historian. Not a sociologist. Not a philosopher. Not a theologian. Not a scientist. In all these fields the South is an awe inspiring blank." I do not propose to take up Mencken's challenge, but I call your attention to the fact that he says "Not an historian," not even a bad one, in the South.

Leaving Mr. Mencken for the literary critics, let us return to the historical work of the 1930's. The late William K. Boyd of Duke University and J. G. deRoulhac Hamilton of the University of North Carolina set the pace for other institutions in collecting and preserving the priceless manuscript records of Southern history. Important collections of manuscripts are also found at the University of Virginia, the University of Texas, and Louisiana State University. New historical societies have been founded and old ones reinvigorated. The Southern Historical Association, founded in Atlanta in 1934, stands out as the most important of the new societies; and the Tennessee, the East Tennessee, and the South Carolina

associations have shown new life. New journals of importance have also been established. Certainly the *Journal of Southern History* (1935), the *Southern Economic Journal* (1935), the *Southern Review* (1935), and the *Journal of Mississippi History* (1939), deserve notice, as do the *Proceedings* of the historical societies already mentioned. New university presses have been established. The Louisiana State University Press with its *Southern Biography Series* deserves especial notice. Important bodies of source materials have been published, and hundreds of books have been written by a new generation of Southern scholars. Among others, Thomas P. Abernethy, Alex M. Arnett, Kathleen Bruce, Thomas D. Clark, E. Merton Coulter, Avery O. Craven, James H. Easterby, Clement Eaton, Ella Lonn, A. B. Moore, Frank L. Owsley, James W. Patton, Francis B. Simkins, Henry H. Sims, Wendell H. Stephenson, Charles S. Sydnor, Rosser H. Taylor, Bell I. Wiley, and Robert H. Woody have helped to enlighten Southern history. Their books are scholarly and authoritative and, if we may accept the view of one bibliophile, "moderate in tone and free from sectional bias." But if one accepts the reviews in the *Journal of Negro History* he will get the opinion that most books by Southern whites are full of sectional bias and racial hatred.

In spite of such widespread and extensive activities the South still falls far short of other sections in its effort to write its history. A few illustrations will make this point clear. From the 1936 *Handbook of Historical Societies* we learn that the number of agencies for preserving material and encouraging research in the Southern states is much smaller than that in the Northern states. Alabama has four, Arkansas one, Florida five, Georgia five, Kentucky seven, Louisiana one, Maryland three, Mississippi four, Missouri nine, North Carolina seven, South Carolina seven, Tennessee two, Texas six, and Virginia four, as compared to California fifteen, Connecticut twenty, Illinois fifteen, Indiana thirty, Maine six, Massachusetts eighty-nine, Michigan nine, New Jersey twenty, New York fifty-five, Ohio twenty, Pennsylvania forty, Rhode Island nine, and Wisconsin sixteen. The paid membership of the Southern societies is correspondingly small, and the total number of libraries in the Southern Societies is thirty-seven, with fifty-six publications, as against some two hundred and fifty libraries and over two hundred publications in the North. We may get another slant on this matter by noticing the books and articles published on the Southern states as listed in Grace Gardner Griffin, *Writings in American History*. The 1918 volume, for instance, shows Alabama one, Arkansas one, Florida two, Georgia three, Kentucky five, Louisiana twenty-three, Maryland three, Mississippi two, Missouri six, North Carolina six, South Carolina eight, Tennessee four, Texas five, and Virginia ten, or a



total of seventy-nine. For the same year California thirty, Connecticut four, Illinois fifty-one, Indiana five, Maine two, Massachusetts forty-one, Michigan twenty-four, New Hampshire eight, New Jersey twenty-one, New York twenty-four, Ohio eight, Pennsylvania thirty-two, Rhode Island eight, and Wisconsin twenty-three, or a total of two hundred and eighty-one. The totals for 1930 are one hundred and eighty-three and three hundred and thirty-four for these states. An analysis of this publication since its beginning in 1902 shows that year after year the publications of the fourteen Northern states outnumber those of the fourteen Southern states about four to one. And the greater population in the Northern states does not alone explain it, for Massachusetts about doubles New York's publication, California exceeds, and Virginia almost equals it. This same publication collects items from some six hundred and forty periodicals, but only forty-four of them are published in the South. This approach is, and must be, quantitative rather than qualitative, but there is much yet to be done if the South wishes even to approximate the historical activity of the North. And while the flood tide of books, monographs, and special studies published during the last quarter of a century has given a much fuller and more complete understanding of the South, much yet remains to be written.

Looking to the present and future, I would say that one of the great problems is still that of materials. Since the South is not a politically organized unit, there is no great collection of official documents to which one may go for a study of its official and political existence. The student must still turn largely to state documents; there is no single collection to which the research student can go; and there is as yet no adequate bibliography of the South. In the second place, the greater part of the source materials for social, economic, cultural, and religious history is in manuscript form and, despite the great collections at Duke University and the University of North Carolina for the upper and eastern South and those at Louisiana State University and the University of Texas for the lower and southwestern area, the researcher must still seek small collections in out-of-the-way inaccessible places.

Reference has already been made to the fact that studies in Southern history must be largely local and state rather than general and regional in nature. This seems to me to be inevitable. A few studies, for instance, U. B. Phillips *American Negro Slavery*, may be region wide, but such general problems are limited in number. E. Merton Coulter's study of *College Life in the Old South* is little more than the College Life at Franklin College. The same goes for most *Southern* studies. The day for general studies is still in the future. I think that the definitive history of slavery cannot be done until



special studies in all the states, comparable to those of Charles S. Sydnor on Mississippi and Ralph B. Flanders on Georgia, have been made. In reply to criticisms of his *American Negro Slavery*, and *Life and Labor in the Old South* Phillips himself said that much "spade work" yet remained to be done and many monographs written before definitive general works could be written.

What is the nature of such local studies yet to be done? Time permits the suggestion of only a few. Among them biographical studies have their place. The South has produced many men in various walks of life who, if not of national significance, made important contributions to the life of the people. Among political figures such men as Littleton W. Tazewell and William C. Rives of Virginia; Thomas L. Clingman, Willie P. Mangum, and William A. Graham of North Carolina; David L. Yulee and Stephen R. Mallory of Florida; George M. Troup, John Forsyth, John M. Berrien, and James M. Wayne of Georgia; Robert J. Walker and John A. Quitman of Mississippi; James Hamilton, Langdon Cheves, William Porcher Miles, and Joseph Barnwell of South Carolina; John Bell of Tennessee; and Charles A. Wycliffe of Kentucky, deserve study. The sociologists, Henry Hughes and George Fitzhugh; the religious leaders, John A. Broadus, Moses Hoge, and Basil Manly; the soldiers, Albert Sidney Johnson and E. Kirby Smith; and a whole host of others deserve biographies.

Economic studies, including railroads, canals, improvement companies, absentee land ownership, location and density of plantations, tenancy and the small farmer, growth of cities and trade, efforts at diversification of farming, and many others are inadequate. Investigations of cultural, educational, and religious trends and developments have been neither exhaustive nor definitive. The quality and character of political leadership, the extent of democracy and aristocratic control, are fields hardly touched. In fact, almost every phase of ante-bellum life needs to be rounded out.

When one comes to the period since Reconstruction he is upon almost virgin ground. Except for the studies on Populism and the disenfranchisement of the Negro most of the problems are not even covered in monographs. Railroad construction, consolidation, and regulation; prohibition; the convict lease system; the extraordinary expansion of state agencies in social activities; and the rise and development of many of the great industries are almost untouched.

The South as a field of research seems to fall into five major divisions, each with its distinctive characteristics. First, the Colonial South needs to be studied with special reference to the background and origins of those forces and factors that were later to unify and

solidify the South. The second period, the Ante-bellum South, has been widely studied but is not yet fully understood. What is most needed here is to fill in the lacunae and round out the picture. The third, or Civil War and Reconstruction, period offers possibilities for new studies in military and constitutional history, and in propaganda and public opinion. But other than the fact that each generation rewrites its history, I do not believe that the general interpretation of these three periods of Southern history will be materially changed, the opinions of the Revisionists on Reconstruction to the contrary notwithstanding. No revolutionary changes in interpretation are expected. More knowledge of the facts of these periods with modifications of interpretation, greater or less emphasis here and there, appear to be the present and future goal for the historian of the South from 1607 to 1877.

The period from the close of Reconstruction to 1900 is different in many respects. During those years the South was finding itself; recovering from the war, laying the foundations for a greatly changed social, industrial, and political order; and reorienting and reintegrating itself within the nation. There is need here for additional knowledge as well as a definite interpretation of the South's development and contributions to history. We really know very little of the facts of the period. The "spade work" of research has not yet been done. But most of all we do not know what this period means; hence we cannot properly interpret it.

The period since 1900 is so new that I doubt any definitive general studies can be made of it for some time to come. The materials have not been collected; and we are so near the events and personalities in point of time that we cannot get the proper perspective for interpreting them. Furthermore, the South is now *a part of* as well as in the Union, and its development is such an integral part of the United States that it has no real separate history. There is now less of separate political entity and organization than ever before. When we get the proper perspective I believe the history of the South since 1900 will so blend with and merge into that of the United States at large that there can be no separate sectional or regional interpretation.

What then is the validity of Southern history? If there is a Southern history, should there be also a New England history, a Mid-West history? The question seems to hinge on whether or not there is a lingering Southern nationalism. The first demand for a Southern history arose in the eighteen forties and fifties when a rising Southern nationalism was attempting to develop a Southern literature, Southern direct trade with Europe, and Southern economic, commercial, cultural, and political independence from the North.



Out of this movement came secession, the Confederate States of America, and the War for Southern Independence. The Confederacy was defeated and there was a "Lost Cause," almost a "Holy Cause," for the people of the South. In 1876 the Southern Historical Society was organized at Richmond to preserve the records and write the history of the "Lost Cause." In 1896 the Southern History Association was organized in Washington to encourage the collection and preservation of materials and the writing of Southern history. This organization languished; and in 1934 a group of Southerners met in Atlanta and organized the present Southern Historical Association that has built up a membership of more than one thousand and publishes the *Journal of Southern History*, one of the best of American historical journals.

This trend in Southern history has its counterpart in economics, sociology, and political science. In recent years there has been organized the Southern Economic Association, the Southern Sociological Society, and the Southern Political Science Association, all of which publish Southern journals. The Southern Governors' Conference has been organized and is carrying on a valiant fight against freight rate discriminations against the Southern territory. Resentment against Northern criticism, even to hostility to the President's *Report on Economic Conditions in the South*, is reminiscent of the resentment of the invidious comparisons of the North and South in the eighteen fifties. The thesis of Walter P. Webb's book, *Divided We Stand*, is similar in many respects to that of Thomas Prentice Kettel's *Southern Wealth and Northern Profits*, written in 1860. The oft repeated charges that the South is today being discriminated against by the Federal government in the letting of defense contracts and the establishment of war industries are very similar to the Southern complaints of the eighteen forties. What is the explanation of these trends? Is there indeed a latent Southern Nationalism that will not die? Whatever may be the explanations, so long as these trends continue there will and needs to be more not less research and writing in Southern history.

THE SOUTH CAROLINA CONSTITUTION OF 1865  
AS A DEMOCRATIC DOCUMENT

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A recent and rather commendable development in the historiography of reconstruction is the belated consideration of the positive contributions of the so-called radical regimes in the various Southern states. However, in revealing much that hitherto has been overlooked, many of the present-day historians retain the great weakness which marred the work of their predecessors—they do not give a complete or entirely accurate picture. To present such a picture is indeed very difficult when one is dealing with only a short period. Nevertheless, even an approach to a scientific interpretation cannot be reached unless the writer carefully weighs the positive contributions of both provisional and radical reconstruction. In this brief study an attempt is made to fill out the picture in regard to a particular phase of provisional reconstruction in one of the states. In spite of the fruitful research of scores of capable students, many similar studies remain to be done before the complete story can be told.

That one of the purposes of the South Carolina constitutional convention of 1868 was to democratize the government of the state is well known, but that the convention of 1865 had gone far toward achieving that result generally has been overlooked. The democratization which was accomplished in 1865 resulted partly from the demands of South Carolinians and partly from the insistence of the President of the United States that a "republican form of government" be established.

Even though white manhood suffrage had existed since 1810, such practices as property qualifications for holding office, the control of the senate by the lower part of the state through the parish system, and the election of the governor, the Presidential electors and most of the other officials by the legislature made South Carolina virtually a political oligarchy. In fact, the statement of a Northern newspaper reporter who attended the convention of 1865 that "the longings of South Carolina are essentially monarchical" and that even many of the common people "would readily accept the creation of orders of nobility," while obviously exaggerated, may have seemed true to an outsider.<sup>1</sup>

Aware of these undemocratic features, Andrew Johnson sug-

<sup>1</sup> Sidney Andrews, *The South Since the War* (Boston, 1866), p. 386.



gested that certain changes be made before South Carolina ask for the restoration of local civil authority.<sup>2</sup> With the support of the President, the provisional governor and some of the delegates from the lower part of the state, the people of the up-country hoped that at last they would obtain the constitutional modifications for which they had been striving so long. Earlier changes had been prevented largely by the refusal of the low-country controlled senate to permit the calling of the convention which probably would make the more populous up-country dominant in both houses of the legislature and provide more directly democratic methods of choosing other state officials. That such a convention must have met eventually is undoubtedly true, but that it assembled in 1865 is to be accounted for mainly by the demand of the President of the United States rather than by the final acquiescence of the low-country. However, before the delegates reached Columbia it was generally agreed that the long delayed reorganization now would take place and that there would be as much interest in solving local problems as in meeting federal demands.<sup>3</sup>

In a transitional period, either the evolutionary or the revolutionary process may be followed. The preference of both President Johnson and most South Carolinians in 1865 was the former. But would the state be permitted to adjust herself gradually and of her own accord to the new conditions? Because of the part she had played in the secession movement, there was more outside interest in her conduct than in that of any other Southern state. It was soon evident that the radicals desired punishment and a period of probation. Obviously the *New York Tribune* did not trust South Carolina.

This state, having been the first and most rampant in rebellion, will probably be the last to receive the benefits of re-construction. All other Southern States will in a short time be under civil rule again, while South Carolina will be suffered to undergo privation a year or two before she can be relieved of military domination. That is the proper government for her at the present time; for it is a question whether a sufficient number of loyal and trustworthy white natives can be found in that State to fill the civil offices. Therefore the Palmetto State will probably have to be content for the present with military rule.<sup>4</sup>

In the meantime, however, the people of South Carolina were accepting the results of the war quietly. A traveler passing through the state in July wrote that "Not one among the marvellous events

<sup>2</sup> Benjamin Franklin Perry, *Reminiscences of Public Men With Speeches and Addresses, Second Series* (Greenville, 1889), pp. 246-247.

<sup>3</sup> A typical statement of the problems that would come before the convention may be found in (Columbia) *Phoenix*, Sept. 4, 1865.

<sup>4</sup> June 23, 1865, reprinted in *ibid.*, July 4, 1865.

of the war seems to me more marvellous than the almost perfect tranquility into which South Carolina has returned."<sup>8</sup> Some of those most interested in the future of the state feared that the situation might best be described as discouragement or even apathy instead of mere quietness.<sup>9</sup> In spite of all his searching, Sidney Andrews could find no evidence that anyone desired to continue the war.<sup>1</sup> But the attitude of repentance demanded by the radicals seemed entirely lacking. When Perry, shortly before his appointment as provisional governor, expressed regret over secession and the war his tone was severely criticized by the Northern press. Having opened his remarks with the statement that "This meeting of the citizens of Greenville is one of deep humiliation and sorrow," he later attributed the existing deplorable conditions in the Southern states to the folly of secession.

Mr. Chairman, I will here frankly say, as I have often said during the past four years, that there was not a man in the United States who more deeply regretted the secession of the Southern States than I did at the beginning of the revolution. There is not now in the Southern States any one who feels more bitterly the humiliation and degradation of going back into the Union than I do. Still, I know that I shall be more prosperous and happy in the Union than out of it.

These words and the comparison of Lincoln and Johnson to the decided advantage of the latter were more than the radicals could stand.<sup>2</sup> Perry's opposition to nullification in 1832 and to secession in 1860, his refusal to leave the Democratic Convention in the latter year and his undisguised love for the Union were all ignored. The *New York Tribune* declared that

If there be in South Carolina no better timber than this wherefrom to fashion a provisional governor, we think the manufacture might have been wisely postponed. . . . From the beginning to the end of this harangue there is no recognition of that large body of the people of South Carolina who are not humiliated.<sup>3</sup>

Other Northern periodicals used a similar tone, and even the *New York Times* had an editorial on the danger of too much talking.<sup>10</sup> When he was in Washington a little later, Perry explained to the President and several members of his cabinet the circumstances under which he had made the speech. Johnson and Seward readily under-

<sup>8</sup> *Nation* (New York), I, July 27, 1865.

<sup>9</sup> *Phoenix*, Aug. 25; *Charleston Courier*, Sept. 4, 1865.

<sup>1</sup> *The South Since the War*, p. 95.

<sup>2</sup> The complete speech was printed in *Phoenix*, July 22, *New York Times*, July 20, 1865, and in several other papers in the state and in the North.

<sup>3</sup> July 20, 1865, quoted by John Porter Hollis, "Early Period of Reconstruction in South Carolina," *Johns Hopkins University Studies in Historical and Political Science*, XXIII (Baltimore, 1905), 32.

<sup>10</sup> July 20, 1865.



stood, but at the request of the former he gave an explanatory statement to the newspapers.<sup>11</sup> However, the *New York Tribune* then retorted that if it was necessary to speak in that manner, South Carolina was not ready for civil rule.<sup>12</sup>

The campaign for seats in the convention was free from spectacular events. The provisional governor and other leaders were very desirous that nothing happen which might interfere with early restoration. At least one prominent candidate who was known to oppose the abolition of slavery and would so vote if elected was persuaded to withdraw from the race.<sup>13</sup> The election passed off quietly and in many places the number voting was smaller than normal.<sup>14</sup> One reason given for the small vote cast was the revocation by military order of the right of magistrates to give the oath of amnesty. The right was restored by the President, but too late for the people generally, in some districts, to avail themselves of the information.<sup>15</sup> Governor Perry, seconded by the press of the state, declared that the convention was composed of the "ablest, wisest and most distinguished men in South Carolina . . . that no political assemblage in South Carolina had ever surpassed it in virtue, intelligence and patriotism."<sup>16</sup> Twelve had sat in the secession convention and most of them had taken part in the war on the side of the Confederacy.<sup>17</sup> There were, of course, the mediocre along with the able. The average age of the delegates seems to have been between forty-five and fifty, with perhaps a dozen young and about the same number of old men.<sup>18</sup>

A few of the individual members deserve mention. James L. Orr had been speaker of the national house of representatives, a leader in the secession convention in spite of his Unionist inclinations, and later a member of the Confederate senate. Francis W. Pickens, a former congressman, had been governor when Fort Sumter had been taken. Alfred Huger had been postmaster of Charleston for many years. Samuel McGowan had been a major-general in the Confederate army. John Farrow had been a member of the Congress at Richmond. The provisional governor's son and secretary was a delegate from Greenville. John A. Inglis, also a leader in the secession convention, was a chancery judge. Franklin J. Moses, of Hebrew

<sup>11</sup> *Phoenix*, Aug. 15, 1865; Perry, *op. cit.*, pp. 246-249.

<sup>12</sup> July 22, reprinted in *Phoenix*, July 31, 1865.

<sup>13</sup> Perry, *op. cit.*, p. 277.

<sup>14</sup> *Charleston Courier*, Sept. 7, and *Winnsboro Tri-Weekly News*, Sept. 5, 7, 1865.

<sup>15</sup> *Phoenix*, Sept. 12, 1865.

<sup>16</sup> Perry, *op. cit.*, p. 274; *Charleston Courier*, Sept. 14; *Phoenix*, Sept. 9; and *Sumter Watchman*, Sept. 27, 1865.

<sup>17</sup> *Journal of the Convention of the People of South Carolina Held in 1860, 1861 and 1862* (Columbia, 1862), p. 46; *Phoenix*, Sept. 7, 1865.

<sup>18</sup> Andrews, *op. cit.*, p. 39.

descent, formerly an ardent secessionist whose activities had not been limited to South Carolina, had been a member of the state senate for many years. James P. Boyce was president of the Baptist Theological Seminary in Greenville.

From the beginning of the convention every effort was made, especially by the leaders, to prevent any action or word which might embarrass the President in his restoration or reconstruction policy. As permanent president the delegates chose Judge D. L. Wardlaw, a man with a long record of public service from the northwestern part of the state. When one member suggested that the rules of order used in the convention of 1860 might be adopted, James L. Orr quickly remarked that he thought that as little reference as possible to that convention would be desirable. This advice was followed and a different set of rules was used.<sup>19</sup>

In his message Governor Perry urged the delegates to look to the future instead of "dwelling on the past, and grieving over its errors and misfortunes." Slavery was dead and must be so declared in a new or amended constitution. He recommended that the basis of representation in the senate be changed so that the small, thinly populated low-country parishes would no longer be given a voice in the state government unwarranted by their population and property. The extension of manhood suffrage to all freedmen was opposed on the ground that they were not ready for it and that such a step would give to the large landowners "a most undue influence in all elections." Perry called to the attention of the delegates the provisions in the constitutions of several of the Northern states requiring the ownership of property for all voters.

If the New York qualification of a freehold for a person of color were adopted in South Carolina very few of the freedmen in this state would ever be able to exercise the right of suffrage. In North Carolina, Tennessee, and perhaps other slaveholding States, free negroes formerly were entitled to vote, but it is understood that they seldom saw fit to exercise the franchise.

The radicals, who wanted no color distinction, Perry said, forgot "that this is a white man's government, and intended for white men only; and that the Supreme Court of the United States has decided that the negro is not an American citizen under the Federal Constitution." He recommended that the governor be elected by popular vote, that he be given more power and an adequate salary, and that the legislature no longer be an "Electoral College for the State."

Perry felt that the great cause of disunion had been removed and

<sup>19</sup> Andrews, *op. cit.*, p. 45; and *Journal of the Convention of the People of South Carolina Held in Columbia, September, 1865* (Columbia, 1865), pp. 185-188.



that "In less than ten years we shall realize in the loss of slavery a blessing in disguise, to ourselves and our children." South Carolina should set "a bright example of loyalty to the other Southern States" in "cheerfully performing all the obligations to the Federal Government." He was gratified that those most active in the late war were cheerfully accepting its results and he condemned the less active ones who were "less inclined to acquiesce in the inevitable results of the war."<sup>20</sup>

In general the governor's message was favorably received by the press of the state, but many Northern periodicals severely criticized his remark that the radicals forget "that this is a white man's government." The *New York Tribune* asserted that they might be excused for forgetting what they had never known and warned that "South Carolina must present herself at the door of the House next December with quite other words and more repentent lips if she looks to see those doors fly open to her delegation."<sup>21</sup>

The important problems which finally came before the convention were those connected with the ordinance of secession, slavery, and the reorganization of the state government. On the second day the ordinance of secession was repealed with only three dissenting votes.<sup>22</sup> Again the *New York Tribune* and *Harper's Weekly* registered their disapproval, declaring that annulment and not repeal was demanded.<sup>23</sup> But the *New York Times* had stated on the day the convention met that repeal would satisfy the federal government,<sup>24</sup> and even the radical correspondent of the *Boston Advertiser* and the *Chicago Tribune*, although he thought that the ordinance should have been annulled, considered the matter of little consequence, since "the whole Confederacy, late and so-called, could not coerce her into again taking up arms against the general government."<sup>25</sup>

Because of the part slavery had played in bringing on the war, the question of its abolition was one of the most important problems to be considered. It was generally admitted that the institution was dead, but there was considerable discussion as to whether the convention or the legislature should be the one to declare it so, and how the declaration should be phrased. Evidence shows that many of the delegates expected the slaveowners to be compensated.<sup>26</sup> At least eight

<sup>20</sup> *Journal*, pp. 11-19.

<sup>21</sup> Sept. 20, 1865, quoted by Hollis, *op. cit.*, p. 37. See also *Harper's Weekly* (New York), IX, Oct. 7, and *Nation*, I, Sept. 28, 1865.

<sup>22</sup> *Journal*, p. 29; Andrews, *op. cit.*, pp. 52-53.

<sup>23</sup> Oct. 17 and 14, respectively.

<sup>24</sup> Sept. 13, 1865.

<sup>25</sup> Andrews, *op. cit.*, pp. 85-86.

<sup>26</sup> *Phoenix*, Sept. 4, 7, 12, 13, 1865. James L. Orr, in a convention debate, expressed confidence that the slaveowners would be compensated. *Charleston Courier*, Sept. 22, 1865.

different emancipation propositions were introduced. Of these, two made no mention of how slavery was being abolished; four stated that it had been done by the federal government in one way or another; and one seemed to imply that the convention was performing the act.<sup>27</sup> The tenor of the speeches and the voting showed that a small majority wished to record the "historical fact" that the federal government had been the emancipating agency, this no doubt being considered a point in favor of compensation.<sup>28</sup> Having decided upon the wording of the provision, the delegates then wrote it into the constitution, with only eight dissenting votes.<sup>29</sup>

So the fact was accomplished beyond all cavil, and South Carolina stepped into the ranks alongside Massachusetts,—joining hands with her to bear aloft the banner of freedom,—bowing to the logic of events rather than that of free speech,—convinced by cannon-balls rather than by arguments, yet, under the circumstances, turning from things of slavery to things of liberty with commendable grace.<sup>30</sup>

The convention seemed agreed that Negroes should be permitted to testify in all cases involving themselves or their property, but it was decided that the matter should be submitted to a special committee to be appointed by the governor, which would report to the legislature.<sup>31</sup>

Negro suffrage as such was not debated.<sup>32</sup> Andrews found that perhaps a score of the delegates had expressed themselves as being opposed to Negro suffrage in any form. He could find only six who definitely showed a more tolerant attitude, but the statement of one of the latter group is particularly interesting—"the idea that South Carolina might, within five years, admit negro suffrage, was not more startling than the idea would have been in 1860, that she would within five years declare slavery abolished."<sup>33</sup>

The basis of representation in the legislature had long been a major point of contention between the upper and lower sections of the state. Under the constitution of 1790 it was possible for the

<sup>27</sup> *Journal*, pp. 7, 19, 20, 22, 27, 30, 31 and 46.

<sup>28</sup> Andrews, *op. cit.*, p. 67.

<sup>29</sup> *Journal*, pp. 64-65.

<sup>30</sup> Andrews, *op. cit.*, p. 67.

<sup>31</sup> *Charleston Courier*, Sept. 29, 1865; *Journal*, pp. 41, 103, 121-123.

<sup>32</sup> It is very interesting to note that Governor Perry, in an article published in 1873, stated—"I thought as a matter of policy and justice, that the intelligent property holders amongst the freedmen should be allowed to vote, and so stated in the original draft of my first message to the convention. But my friends advised me to leave out this recommendation, as it would only produce a division in the convention, and there was no probability of its being adopted. I did so, and have ever since regretted it, for if a qualified suffrage had been extended to the colored people, we might have avoided the second reconstruction and the Constitutional Amendment imposed by Congress." Perry, *op. cit.*, p. 275.

<sup>33</sup> Andrews, *op. cit.*, pp. 89-90.



three low-country judicial districts of Beaufort, Charleston, and Georgetown, with only one-fifth of the white population, to control the state government. After the amendments were passed in 1808, allowing each district to elect one representative for every sixty-second part of the white population of the state it contained and one for every sixty-second part of the taxes it paid, the up-country gained control of the house of representatives. However, the practice of combining districts in choosing senators was discontinued, thereby giving each district one senator and the city of Charleston two. This enabled the low-country to retain control of the senate. The upper part of the state had made a substantial gain, but as its population grew it became more dissatisfied with a basis of representation which allowed a "rotten borough" to elect a senator and placed so much emphasis on wealth.<sup>34</sup>

The two sectional groups soon found themselves arrayed against one another in the convention of 1865. Andrews thought that there was as much difference in feeling as would have been the case if one group had come from "this State and the other from Indiana."<sup>35</sup> According to the same writer, George D. Tillman of Edgefield, the most influential up-country leader, was "a genuine Red Republican in his disregard of what he called 'ancient rights and privileges'" and characterized the parish system as the "Chinese conservatism of Charleston."<sup>36</sup> The only hope of the low country lay in the limitation of the convention to the consideration of only those matters which must be dealt with in order to restore the state to participation in the federal government, but all such attempts failed.<sup>37</sup> Thus the parish system was abolished and one of the most undemocratic provisions in the constitution of South Carolina was removed.<sup>38</sup>

Having decided to leave the number of members of the house of representatives at one hundred and twenty-four, the delegates engaged in a lengthy debate as to whether the Negroes—now that they were free—should be counted for representation purposes. This brought up the color issue with all its connections. Seeing a chance to regain control of the lower house of the legislature, the delegates from the low-country, where most of the freedmen lived, made a stubborn fight to have the representatives apportioned according to

<sup>34</sup> An interesting historical sketch of this problem is given in David Duncan Wallace, "The South Carolina Constitution of 1895," *University of South Carolina Bulletin*, No. 197 (Columbia, 1927), pp. 14-15.

<sup>35</sup> *The South Since the War*, p. 47.

<sup>36</sup> *Ibid.*, p. 80.

<sup>37</sup> *Journal*, pp. 6, 22, 33-34; *Phoenix*, Sept. 21, *Charleston Courier*, Sept. 25, 1865; Andrews, *op. cit.*, p. 80.

<sup>38</sup> *Journal*, pp. 69-71. The new provision stated that "Each Judicial District in the State shall constitute one Election District except Charleston District, which shall be divided into three Election Districts."

property and the total population, instead of property and the white inhabitants. Andrews thought that the proposed change gained ground with debate, but it finally lost by the narrow vote of fifty-one to fifty-nine. Then the compromise of counting three-fifths of the Negroes was debated until the statement of several leaders that all or none should be represented caused it to be withdrawn. The next step was the reconsideration of the first proposal. In answer to the argument that Negro representation was a step toward Negro voting, Judge Edward Frost asserted that the Negro was a free man, but not ready for the suffrage. He did not think that the freedmen were asking for the voting privilege except when influenced by designing white men. "We must concede that the negro is a free man, having civil rights, having property rights, having the right to be represented in the body politic, and unquestionably destined at no very distant day to have political rights." For a time it seemed that at least the three-fifths compromise would be adopted, but finally some of the leaders who had been supporting the proposal to count all the Negroes stated that reflection had convinced them that the time had not come when they should be admitted into the body politic in any manner. It was then decided that the basis of representation should remain property and white population.<sup>39</sup>

Most of the controversial questions had now been disposed of, but the convention took several other important actions. The property qualification for holding office was abolished and the practice of keeping similar state offices in Columbia and in Charleston was discontinued.<sup>40</sup> For a long time the more democratic up-country had insisted that the Presidential electors should be chosen by popular vote. Since the federal Constitution assigns to the legislature the power to specify the method of choice, the convention could not fix the process of election; but it passed a resolution stating "That the election of electors of President and Vice-President of the United States should be made by the people of the State entitled to exercise the right of suffrage, and that the Provisional Governor be respectfully requested to communicate this resolution to the next Legislature."<sup>41</sup> Another step toward the democratization of the state government was the adoption of the provision that thereafter the governor should be elected by popular vote. He was to serve four years and might not hold office for two consecutive terms. His power was

<sup>39</sup> *Journal*, pp. 79-82, 86-87; *Charleston Courier*, Sept. 25, 1865; Andrews, *op. cit.*, pp. 69-75, 82.

<sup>40</sup> Article I, sections 13 and 14; article II, section 3; and article xi of the constitution of 1865.

<sup>41</sup> *Journal*, p. 68; *Constitution of the State of South Carolina and the Ordinances, Reports and Resolutions adopted by the Convention of the People Held in Columbia, S. C., September, 1865* (Columbia, 1866), p. 11.



enlarged to the extent that he was given a partial veto which could be overruled by the majority vote of the whole representation in both houses of the legislature.<sup>42</sup> The lieutenant-governor, whose part in the government had been slight indeed, heretofore, was made president of the senate and given a vote in case of even division.<sup>43</sup> In all elections by the legislature the members must vote *viva voce* and their votes were to be recorded in the journals.<sup>44</sup>

White manhood suffrage was retained with the liberalization that emigrants from Europe who met the residence requirements and had declared their intention of becoming citizens were given the franchise. This was expected to encourage immigration.<sup>45</sup> An attempt was made to fix a uniform basis of tax assessment.<sup>46</sup>

No provision was made for a referendum on the constitution or any action of the convention.<sup>47</sup>

The democratizing features of the new constitution and the other work of the convention were well summed up by Governor Perry in his final message:

You have repealed the Ordinance of Secession, abolished slavery, equalized the representation in the Senate, given the election of the governor to the people, expressed your judgment in regard to the election of Presidential Electors by the people, established equal taxation throughout the State, and declared the responsibility of the representative to his constituency by *viva voce* voting in the Legislature.

You have endorsed the administration of President Johnson, and pledged yourselves to co-operate with him in "the wise measure he has inaugurated for securing peace and prosperity to the whole Union." And you have referred to a Commission the protection of the "Freedmen" and colored population of the State, whose business it will be to regulate the relative duties of employee and employer.<sup>48</sup>

The *Charleston Courier* thought the constitution "truly Republican in character, and can scarcely fail to meet with general commendation." As to the vital question of whether the convention had satisfied the federal government and the rest of the country, it was felt

<sup>42</sup> Article II, section 2 and 21 of the constitution; *Journal*, pp. 112-113, 117; *Charleston Courier*, Sept. 20, 28, 1865.

<sup>43</sup> Article II, sections 5 and 6.

<sup>44</sup> Article I, section 25.

<sup>45</sup> Article IV; *Charleston Courier*, Sept. 28, 1865.

<sup>46</sup> Article I, section 8; *Charleston Courier*, Sept. 19, 1865.

<sup>47</sup> The South Carolina constitution of 1868 is the only one that has ever been submitted to the people. Previous ones had been "put into force by the body that framed them on the old theory of the sovereignty of the people being possessed by the convention." Wallace, *op. cit.*, p. 22.

<sup>48</sup> *Journal*, p. 130. Not considering such an action a *sine qua non* for restoration, the convention did not repudiate the Confederate debts. When Secretary Seward informed Perry that the President did expect repudiation, the convention had adjourned. Seward then expressed a desire for an official statement on the subject by the legislature. *Senate Executive Documents*, 39th Cong., 1st Sess., No. 21, pp. 200-201.

that it had "placed itself on an impregnable foundation, and may appropriately claim the support of the good and the wise in every section."<sup>49</sup> But there were those who viewed the matter from a different angle. Completely ignoring the democratic changes in the constitution, *Harper's Weekly* said:

. . . Either South Carolina as a State of the Union has the right to refuse to make any change whatever in her Constitution, and to claim the recognition of her Senators and Representatives in Congress exactly as those of New York are recognized, or the United States have the right to insist upon such conditions of her return as good sense and experience suggest. South Carolina, by the assembling and action of her Convention under the authority of the United States, has already yielded her claim. She acknowledges the authority of the United States to dictate the terms of her return. Let the United States not mistake weakness for generosity, nor expect a harvest of palms if they allow dragon's teeth to be sown.<sup>50</sup>

Although he approved the democratic features of the constitution so far as they went, Andrews thought that the failure to take the Negro into the body politic and the general attitude of the people that the state was more important than the federal Union were sufficient to warrant a delay in the restoration of South Carolina to her former relations with other states and with the federal government.<sup>51</sup>

The events succeeding the convention are in general well known. The elections were held and the legislature met. The President allowed the governor-elect to take office. Congress did not admit the senators and representatives chosen in the Southern states. The investigating committee submitted its report, and with the Congressional Acts of 1867 the process of restoring the late Confederate states began anew.

Thus the evolutionary process was supplanted by the revolutionary. The constitution of 1865 was followed by the constitution of 1868. The former document has been given scant attention by either the conservatives or the radicals. Both have taken it for granted or ignored it. To one group it had to be good; to the other it had to be bad. Neither recognized it for what it was, or at least might have been—a transitional document which represented a distinct stage in the democratization of the political structure of South Carolina. When compared to the constitution of 1868, it may seem conserva-

<sup>49</sup> Sept. 29, 30, 1865. A similar opinion was expressed in *Sumter Watchman*, Oct. 4.

<sup>50</sup> Oct. 14, 1865.

<sup>51</sup> Andrews tried hard to be unbiased, but he never succeeded in understanding why South Carolinians did not repent of their "political sins" immediately. Although he was more sympathetic than many others of his group, he thought with them that the admission of the Southern senators and representatives should be delayed. *Op. cit.*, p. 391.



tive, particularly in regard to the color question. But if it is considered in the light of the document preceding it, the positive democratic features are easily seen. An indication that we are approaching the day when a broader perspective will enable us to study the South Carolina constitution of 1865 on its merits is the statement of the most recent and the ablest of the defenders of "Black Reconstruction" that the convention "took some advance steps" and that at least one action of that body "was a step toward democracy so far as the whites were concerned."<sup>22</sup>

<sup>22</sup> W. E. Burghart Du Bois, *Black Reconstruction* (New York, 1935), p. 385.

WILLIAM PORCHER MILES, PROGRESSIVE MAYOR OF  
CHARLESTON, 1855-1857

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In the fall of 1855, the conservatives of Charleston faced the rising tide of Know-Nothingism. Know-Nothing candidates had already been successful in local and state elections in parts of the South,<sup>1</sup> and in September one was reported elected Intendant of Greenville.<sup>2</sup> There were indications that this might become the case also in Charleston.<sup>3</sup>

Looking for a mayoral candidate unhampered by previous commitments who could swing doubtful votes, the Southern Rights Party selected William Porcher Miles.<sup>4</sup> Born at Walterboro and educated at the College of Charleston, he had returned in 1843, after a brief period of law study in the office of Edward McCrady, to teach mathematics at his alma mater. He was noted for his gentlemanly bearing, handsome appearance, brilliant intellect, moral courage, resolute independence, and genuine modesty. In addition, he won a reputation for unselfish heroism when he volunteered, along with other Charlestonians, in the late summer of 1855 to nurse in a yellow fever epidemic which swept away two-thirds of the white population of Norfolk.<sup>5</sup> Miles accepted the nomination reluctantly and returned from Norfolk in time to make one public address.<sup>6</sup> After an energetic campaign by his friends against the Know-Nothings, he was elected by a handsome majority.<sup>7</sup>

Miles, a young man of thirty-three familiar with the needs of the city, assumed his new duties with zest. Believing that the mayor

<sup>1</sup> Arthur C. Cole, *The Whig Party in the South* (Washington, 1913), pp. 315-320; *Charleston Courier*, Oct. 6, Nov. 12, 13, 1855.

<sup>2</sup> *Courier*, Sept. 13, 1855.

<sup>3</sup> William H. Trescot to Miles, Sept. 6, 1855, William Porcher Miles Manuscripts, University of North Carolina Library.

<sup>4</sup> W. D. Porter to Miles, Sept. 6, 1855; I. W. Hayne to *id.*, Sept. 7, 1855, Miles MSS.

<sup>5</sup> Francis B. Simkins, "William Porcher Miles," *Dictionary of American Biography*, 20 vols. (New York, 1928-1936), XII, 616-617; Miles to the Editor of the *Charleston Mercury*, Oct. 21, 1854; Charles H. Moise to Miles, Oct. 27, 1854; W. D. Porter to *id.*, Sept. 6, 1855; H. L. Pinckney, Jr. to [Richardson Miles], Sept. 12, 1855; Miles to L. L. Brickhouse, Oct. 7, 1855; William M. Lawton to Miles, Nov. 6, 1855, Miles MSS. See also *Cyclopedia of Eminent and Representative Men of the Carolinas of the Nineteenth Century*, 2 vols. (Madison, 1892), I, 659-660 and James H. Easterby, *A History of the College of Charleston* (Charleston, 1935), p. 101.

<sup>6</sup> W. D. Porter to Miles, Sept. 12, 1855; William H. Trescot to *id.*, Sept. 16, 1855; B. R. Carroll to *id.*, Nov. 6, 1855, Miles MSS; *Courier*, Nov. 6, 12, 1855.

<sup>7</sup> *Courier*, Sept. 18, 19, Oct. 9, 15, 16, 21, 26, Nov. 5-9, 1855.



"should be the eye that supervises and directs the whole municipal machinery,"<sup>9</sup> he devoted vigilant attention even to minor urban problems.<sup>9</sup> Apparently, he was determined "to sweep away the remains of old fogysm."<sup>10</sup> But the petty details of his office gave him a sense of frustration, and he longed for some constructive work.<sup>11</sup> He turned, therefore, to the solution of three major problems of the city: the preservation of law and order, the protection of the public health, and the restoration of the public credit.

Convinced that the city had outgrown the old night watch, designed primarily to keep the slaves in check, Miles recommended "a thorough revision and reorganization" of the police system.<sup>12</sup> Charleston, a sea-port of about forty-three thousand,<sup>13</sup> had much property to be protected and many lawless white inhabitants to be controlled. Yet there was no adequate body of officers to enforce the ordinances during the day, and the night watch was inefficient, for it was composed of men who also worked at manual labor. Moreover, there was a feeling that Charleston lagged behind rival cities in her police system.<sup>14</sup>

A committee under the capable direction of Miles proceeded to a systematic collection of data concerning the systems of other cities. J. M. Harleston, the captain of the guard, went to Savannah and New Orleans to make a study of their reputedly efficient systems. Miles corresponded with the mayors of other cities to procure information, and the committee studied the systems of New York and certain English cities. After two months the committee made a report, in which they acknowledged indebtedness for ideas to Savannah. The council accepted their recommendations.<sup>15</sup>

The major change was from the old night watch to a permanent day and night police, composed of men who devoted their entire time to their duties. The new organization consisted of a chief, two captains, six lieutenants, twenty sergeants, one hundred fifty privates, and four detective agents. The chief was responsible for the control

<sup>9</sup> Proceedings of Council, *ibid.*, Dec. 22, 29, 1855, Jan. 10, Mar. 27, 1856. The journals of the Council were destroyed during the Civil War. The *Courier* was the official city paper.

<sup>10</sup> *Ibid.*; William H. Trescot to Miles, Dec. 25, 1855, Miles MSS.

<sup>11</sup> *Courier*, Nov. 29, 1855.

<sup>12</sup> Trescot to Miles, Mar. 30, 1856, Miles MSS.

<sup>13</sup> Proceedings of Council, *Courier*, Nov. 15, 1855.

<sup>14</sup> The population of Charleston was 42,985 in 1850. (*A Statistical View of the United States . . . Being a Compendium of the Seventh Census . . .*, by J. D. B. DeBow (Washington, 1854), p. 192.)

<sup>15</sup> Proceedings of Council, *Courier*, Dec. 22, 29, 1855, Jan. 17, Mar. 6, 1856. See also *ibid.*, Nov. 26, Dec. 17, 1855, and Feb. 5, 1856.

<sup>16</sup> Proceedings of Council, *ibid.*, Dec. 14, 1855, Jan. 17, Feb. 21, 1856; *Ordinances of the City of Charleston, 1854-1859 . . .*, compiled by John R. Horsey (Charleston, 1859), pp. 21-23.

and management of the whole organization, and each officer in turn for his subordinates.<sup>18</sup>

The military character of the new system, which distinguished it from the police of northern cities, reflected local attitudes and problems. The committee thought that the slave population was "peculiarly susceptible to the influence of military display." In addition, since it was difficult to secure efficient privates for the wages paid, the higher-salaried officers, most of whom were Citadel Academy graduates, were expected to furnish the "will and intelligence." Furthermore, "in our community, peculiarly apt to chafe at the restraints of police regulations," the committee reported, "the officers are those to whom we must look and upon whom we must rely for quelling disturbances and preserving good order and quiet in the streets."<sup>19</sup>

Another important reform in the police system was in the method of appointing its personnel. The mayor continued to appoint the chief, the captains, and the lieutenants, but the chief was vested with the power of appointing and discharging the sergeants and the privates. This increased the chief's authority over his men, relieved the mayor of the time-consuming job of considering applications, and struck at the roots of the spoils system. Previously the usual claims of an applicant had been, not that he was capable, but that he had "voted on the right side" or was "very poor" and had "a large family." In Miles's new system, appointments were made on the basis of merit, "without reference to personal, political or charitable consideration."<sup>20</sup>

Other changes were made to increase the efficiency of the police. All except the detective agents were required to wear distinctive uniforms and individual numbers, to prevent the abuse of their authority and to enable those desiring their services to secure them readily. To prevent unjust arrests, both officers and men were deprived of any moiety of fines collected in the mayor's court. "Nothing has tended more to bring our City Guard into disrepute," the committee reported, "than the wide-spread impression, in many cases only too justly founded, that a love of gain and not a conscientious sense of duty, is the stimulus which actuates them."<sup>21</sup> As an aid in the detection and prevention of crime, records and daguerreotypes of all "rogues and suspected persons" were kept on file.<sup>22</sup> Finally, the most striking feature of the Savannah system, a large mounted patrol, was

<sup>18</sup> Proceedings of Council, *Courier*, Jan. 17, Feb. 21, 1856; *Ordinances*, p. 21; Report of the Chief of Police, Appendix B, *Mayor's Report on City Affairs*, 1857 (Charleston, 1857), p. 39.

<sup>19</sup> Proceedings of Council, *Courier*, Jan. 17, Mar. 27, 1856.

<sup>20</sup> *Ibid.*, Jan. 17, 1856; *Ordinances*, pp. 21, 22; *Mayor's Report*, p. 16.

<sup>21</sup> Proceedings of Council, *Courier*, Jan. 17, 1856; *Ordinances*, pp. 22, 23.

<sup>22</sup> Report of Chief of Police, Appendix B, *loc. cit.*, p. 40.



adopted. This assisted in detecting and preventing crime, in keeping the foot sentinels alert, and in conveying information promptly to headquarters.<sup>21</sup>

One of the most progressive features about the new police system was the preventive principle upon which it was based. Miles's committee contended:

Every fire, every robbery, every act of wanton violence or outrage, which is prevented or made abortive by watchful guardians of the public peace and security, is a positive gain to the general good, although it may be impossible in every instance to assess the money value of the services rendered, or the pecuniary loss which would have ensued had they not been at command.<sup>22</sup>

The new system met almost immediate opposition,<sup>23</sup> and the policemen were dubbed "Paddy Miles's Bull Dogs."<sup>24</sup> This hostility came from disappointed political partizans not appointed as privates, from "habitual violators" of ordinances, who regarded their enforcement as "downright tyranny,"<sup>25</sup> and from those who disapproved the increased cost.<sup>26</sup> Miles believed, however, that the greater "quiet, good order and security of the city" justified the expenditure.<sup>27</sup>

Since Miles wished to prevent crime, he considered also the problem of juvenile delinquency, called to the public attention by the *Courier*.<sup>28</sup> Interested in young people as a former professor, he was disturbed by the city's want of suitable punishment for youthful offenders.<sup>29</sup> "Neither the Jail nor the Poor House is a fit place for them," he explained to the council. "The associations there are very often such as are likely to do them harm, rather than good."<sup>30</sup> The council accepted his recommendation for the establishment of a house of correction for their punishment.<sup>31</sup>

Miles also manifested a marked concern throughout his administration in improving the public health as a means of increasing the city's prosperity. His experiences during yellow fever epidemics in Norfolk and Charleston had convinced him of their baneful effect on trade and commerce. Since the medical profession advanced conflicting theories of the cause of the disease, Miles concluded that the

<sup>21</sup> Proceedings of Council, *Courier*, Jan. 17, Feb. 21, 1856; *Ordinances*, p. 22.

<sup>22</sup> Proceedings of Council, *Courier*, Jan. 17, 1856.

<sup>23</sup> *Ibid.*, July 3, 10, 1856.

<sup>24</sup> Edward P. Cantwell, *A History of the Charleston Police Force, 1783-1908* (Charleston, 1908), p. 13.

<sup>25</sup> *Mayor's Report*, pp. 17, 18.

<sup>26</sup> *Ibid.*, p. 18; *Courier*, Feb. 5, 1856.

<sup>27</sup> Proceedings of Council, *Courier*, Oct. 13, 1857.

<sup>28</sup> *Courier* editorial, Dec. 10, 1855.

<sup>29</sup> Charles H. Moise to Miles, Oct. 27, 1854; William H. Trescot to *id.*, Dec. 25, 1855, Miles MSS.

<sup>30</sup> Proceedings of Council, *Courier*, Dec. 22, 1855, Jan. 10, Mar. 6, 1856.

<sup>31</sup> *Ibid.*, May 29, June 12, July 3, 1856; *Ordinances*, pp. 28, 29, 33, 34.

only practical solution was to take every precaution.<sup>22</sup> He advocated, therefore, local sanitary measures and a strict system of quarantine.

The slight elevation of Charleston complicated the problem of sanitation. Low, muddy places in the streets and lots either had been left to collect stagnant water or had been filled with offal and other waste matter. At Miles's suggestion, the council began a drive to have these places filled with sand, delivered weekly under contract in quantities of three or four hundred tons. Having prohibited the use of offal for this purpose, they provided for its removal from the city.<sup>23</sup> Miles also hired additional street sweepers and rigorously enforced existing ordinances requiring citizens to keep their lots and adjacent streets clear of filth and their cow stalls floored or paved.<sup>24</sup> When the council, under his prodding, provided that hogs, cattle, and other animals should be slaughtered only at the new abattoir in the extreme northwest portion of the city, the butchers protested so violently that those having pens washed twice daily by the tide were permitted to remain in the city, under strict supervision and regulation, until January 1, 1860.<sup>25</sup>

The effective drainage of low-lying Charleston presented more formidable difficulties. Early in his administration, Miles suggested to the council:

The subject of Drainage is one which, in our climate, ought to engage the earnest attention of every municipal government. We cannot too highly estimate the importance of a thorough system of sewers. It is time that something systematic should be done. We have expended millions on great enterprises which are to advance the prosperity of the city. But it can never be truly prosperous unless it be healthy, and this cannot be unless the drainage is thorough and efficient.<sup>26</sup>

When the council authorized him to appoint a committee of health and drainage to consider the problem, he selected James M. Eason and two physicians, William Wragg and William Hume.<sup>27</sup>

For three months the committee studied a report on the tidal system of drainage prepared for the previous administration by

<sup>22</sup> Proceedings of Council, *Courier*, Dec. 29, 1855, Feb. 7, 1856, Oct. 13, 1857. See also Thomas J. Wertenbaker, *Norfolk: Historic Southern Port* (Durham, 1931), pp. 210-216.

<sup>23</sup> Proceedings of Council, *Courier*, Dec. 22, 1855, Feb. 7, Mar. 5, May 14, 21, 29, July 30, Aug. 6, 22, 1857; *Ordinances*, pp. 47, 48.

<sup>24</sup> Proceedings of Council, *Courier*, Dec. 22, 1855, Feb. 7, Mar. 13, 27, Apr. 5, 1856; City Advertisements, *ibid.*, Dec. 19, 1855, Apr. 10, 1856.

<sup>25</sup> Proceedings of Council, *ibid.*, Dec. 22, 1855, May 2, July 10, 24, Sept. 18, Oct. 2, 1856; Jan. 8, Feb. 26, Apr. 18, June 18, 1857; *Ordinances*, pp. 49-51.

<sup>26</sup> Proceedings of Council, *Courier*, Dec. 22, 1855.

<sup>27</sup> *Ibid.*, Dec. 22, 1855; [Leonard] Mears and [James] Turnbull, *The Charleston Directory Containing the Names of the Inhabitants . . .* (Charleston, 1859), pp. 101, 229.



Major Charles Parker and a report on the drainage of English cities prepared in 1850 for the British parliament. They also investigated the system of drainage in use in the older part of the city. Then they recommended to the council for that part of the city north of Calhoun street a system of drainage which, in their opinion, combined the best features of the Parker and English plans and corrected the errors found in the drains of the lower wards. The distinctive feature was the proposal to construct all the drains on a dead level only twenty inches above the low water mark and to fit their outlets with valves which were to be closed at high tide to retain the salt water and opened at low tide to permit it to flow out rapidly. The tides would thus flush the drains of all filth twice daily.<sup>38</sup>

The plan of the committee was not put into immediate operation because Major Parker, of the previous administration, took issue with the modification of his plan and aroused public opposition to the change. Further delay occurred when the contractors refused to complete the drains for the estimated cost. Though some members of the council sided with Parker, a majority voted to continue the work under the supervision of the committee. Near the end of Miles's administration, the drains in Calhoun, Meeting, and Spring streets were nearing completion.<sup>39</sup>

The old drains in the lower wards had not been cleaned for a number of years. They were so clogged with filth that Miles believed them to be endangering the health of the city. At his recommendation, therefore, the council had them cleaned and repaired during the winter of 1857.<sup>40</sup>

Acting on the assumption that yellow fever was introduced by ships from infected ports, Miles recommended changes in the system of quarantine. At his instigation, the legislature of the state appointed a commission to consider the practicability of removing the quarantine ground further from the city, the lazaretto nearer to the quarantine ground, and the Marine Hospital out of the city, and of erecting suitable warehouses for the cargoes of quarantined vessels. Meanwhile, he provided for the strict enforcement of quarantine regulations established by previous administrations.<sup>41</sup>

After a mild epidemic of yellow fever in the fall of 1856, believed to have been introduced by an infected ship from the West Indies,

<sup>38</sup> Proceedings of Council, *Courier*, Feb. 23, Mar. 20, 1856. See also Robert N. Gourdin to Miles, Aug. 29, 1856, Miles MSS, and *Final Report of the Committee on Health and Drainage, on . . . the Sewers Recently Built in the Upper Wards* (Charleston, 1857).

<sup>39</sup> Proceedings of Council, *Courier*, Mar. 27, 31, Aug. 28, Oct. 2, 1856, Jan. 22, Feb. 5, July 30, Oct. 13, 1857.

<sup>40</sup> *Ibid.*, Jan. 8, 22, Feb. 19, 1857.

<sup>41</sup> *Ibid.*, Aug. 7, Nov. 27, 1856.

Miles's council adopted an even more stringent policy. All vessels which cleared from any port south of Savannah, whether yellow fever had been reported there or not, were required to remain at the quarantine grounds, between May 31 and October 1, for thirty days before coming up to the city. Their cargoes were stored at the old "London and Liverpool rice wharves" at the extreme western end of Calhoun street. In spite of vociferous and bitter opposition to this regulation by some of the leading importers and commission merchants, Miles and his supporters in council succeeded, sometimes by the slight majority of seven to five, in continuing what they thought a justifiable precautionary measure.<sup>42</sup>

To prevent the spread of contagious diseases introduced by land, the council erected a pest house in a remote part of the city and gave the mayor authority to commit to it, with the advice and assistance of the city register, persons afflicted with such diseases.<sup>43</sup>

Miles also devoted much attention to the financial condition of the city, recommending at his first council meeting "an early and thorough examination . . . into the state of the City Finances."<sup>44</sup> He was ably assisted by Robert N. Gourdin, chairman of the committee on ways and means.<sup>45</sup> When Miles was elected, the funded debt of the city, incurred by subscriptions to railroads and gas light companies and by the accumulation of obligations for current expenses, amounted to three and one-half million dollars; city bonds were selling at a discount of fifteen per cent; and the average annual expenditure of the city was \$507,000. Miles's reforms soon raised this sum to \$565,000.<sup>46</sup> The problem was further complicated by legislative enactments which exempted much city property from local taxation and retained the classification and assessment act of 1784 for state taxation. This act taxed country property on its 1784 value, while city property was taxed on its current value. As a result, the city was bearing almost a fourth of the total state tax burden.<sup>47</sup> Furthermore, additional inequalities in taxation resulted from city ordinances which exempted from municipal taxation capital

<sup>42</sup> *Ibid.*, Apr. 7, May 14, June 18, July 2, 9, 16, 23, 30, Aug. 6, 1857; *Ordinances*, p. 48.

<sup>43</sup> Proceedings of Council, *Courier*, Dec. 22, 1855, Jan. 10, May 29, 1856; *Ordinances*, pp. 24, 25.

<sup>44</sup> Proceedings of Council, *Courier*, Nov. 15, 1855.

<sup>45</sup> Miles to Alfred Huger, Nov. 19, 1857, Miles MSS.

<sup>46</sup> Proceedings of Council, *Courier*, Dec. 29, 1855, May 2, 1856, Apr. 4, 18, Oct. 13, 1857; *The Disabilities of Charleston for Complete and Equal Taxation, and the Influence of State Taxation on Her Prosperity; Also, an Examination of the Measure of Mr. James G. Holmes, for the Liquidation of the Debt of the City . . . Being Reports of the Committee on Ways and Means . . .* (Charleston, 1857), p. 35.

<sup>47</sup> *Ibid.*, pp. 8-30; David Duncan Wallace, *The History of South Carolina*, 4 vols. (New York, 1934), II, 336, 481.



invested in shipping, and from the failure of many persons to make correct returns on stocks of goods, incomes, dividends, premiums, and commissions."<sup>48</sup>

The committee on ways and means, believing that the credit of the city should be restored "to its former high standing" and that the reforms begun by Miles should be continued, faced the problem of raising additional money. It proposed the removal of exemptions and an increase on property incorrectly returned. Consequently a tax was placed on capital invested in shipping and the rates were raised on stocks of goods, incomes, commissions, interest, and dividends."<sup>49</sup> Although the council received some support in its policy of equalizing the tax burden, the shippers and merchants protested so vigorously that they succeeded in securing slight modifications.<sup>50</sup> For the most part, the vociferous opposition to the city tax bills arose not so much from the increase of taxes—for the belief was general that the credit of the city should be maintained—as from the shift of the tax burden, for each interest, feeling itself more essential to the general welfare than the other, believed that it should be taxed lightly or exempted altogether.<sup>51</sup>

Pursuing its policy still further, the committee on ways and means prepared a report which pointed out and explained the impolicy of the legislative exemptions and the inequality of the system of state taxation based upon the assessment act of 1784. After distributing this report in pamphlet form throughout the state, the council prepared a memorial to the legislature to make desirable changes. They were too late, however, to do more during the Miles administration than convince the public that the high city taxes were a result of the unequal state system.<sup>52</sup>

The problem of restoring and maintaining the credit of Charleston was fraught with difficulties. The city debt, already large, seemed destined to become larger, for Miles and Gourdin both believed that Charleston, to compete successfully in the western trade, for which it had already invested heavily in railroads, would have to be healthy. To make it so, Miles's reforms would have to be continued and expanded to include paving the streets and securing an adequate water supply. In addition, the old sinking fund had proved inadequate.

<sup>48</sup> Proceedings of Council, *Courier*, Dec. 29, 1855, May 29, 1856.

<sup>49</sup> *Ibid.*, Dec. 29, 1855, May 2, 1856; *Ordinances*, pp. 29-32, 44-45.

<sup>50</sup> Proceedings of Council, *Courier*, May 10, 29, June 12, Aug. 7, 1856, Jan. 17, 1857; *Ordinances*, pp. 32, 44.

<sup>51</sup> *Courier*, May 9, 1856, Apr. 17, 21, 23, June 26, 1857; *Mayor's Report*, pp. 1-11.

<sup>52</sup> Proceedings of Council, *Courier*, Apr. 18, Aug. 22, Sept. 3, 1857; *Memorial in Relation to the Inequalities of the Present System of State Taxation* (Charleston, 1857); Wallace, *op. cit.*, III, 238.

The legislation of different city administrations concerning it had been so inconsistent and contradictory that there was little prospect in 1856 for its ever providing for the payment of more than half the debt. Furthermore, city stocks and bonds had been issued at irregular intervals, so that payments due ranged from nothing in some years to over a million dollars in others.<sup>83</sup>

Seeking some practicable plan for the systematic reduction and ultimate liquidation of the public debt in order to restore the confidence of the city's creditors in its securities, Miles became impressed with a scheme which James G. Holmes, a well-known city broker, had devised originally for retiring the debt of the South Carolina railroad company. Having first intersted Gourdin and his committee in the plan, he recommended it to the council. After a year, during which the committee, the council, and the public considered the plan, the council authorized Miles to appoint Holmes to put it in operation.<sup>84</sup>

The plan resembled the serial bond issue which came into general use about fifty years later. The sinking fund was abolished and the limit to the city debt was set at five million dollars. Outstanding issues of stocks and bonds were to be called in to be exchanged for new issues payable semi-annually, according to the schedule, for thirty-five years. The annual appropriation for payment on principal and interest was to be \$343,360. As each semi-annual payment reduced the principal, the amount of interest thus saved was to be added to the succeeding payment on the principal. Consequently, the proportion of the annual appropriation to be paid to the interest would constantly decrease, permitting, thereby, the proportion to be paid to the principal to increase from \$21,680 for the first payment in October, 1857, to \$166,690 for the last payment in April, 1892.<sup>85</sup> This plan met "with general favor" in the city, and within a month after his appointment Holmes announced that he had already exchanged nearly half a million dollars worth of stock.<sup>86</sup>

In the fall of 1857, Miles neared the end of his administration. During the first part, he had enjoyed great popularity;<sup>87</sup> and in October, 1856, when a candidate for Congress, he had carried the city

<sup>83</sup> Proceedings of Council, *Courier*, Apr. 4, 1857.

<sup>84</sup> *Ibid.*, Aug. 7, 28, 1856, Mar. 5, Apr. 4, May 21, July 23, Aug. 22, 1857; *Ordinances*, pp. 52-54; *The Disabilities of Charleston for Complete and Equal Taxation . . .*, *passim*; *Charleston Directory*, 1859, p. 97.

<sup>85</sup> Proceedings of Council, *Courier*, Aug. 28, 1856, Apr. 4, 1857.

<sup>86</sup> *Courier*, Apr. 9, Sept. 9, 1857. See also James G. Holmes, *Commissioner of the City Debt to the Stockholders of the Debt*, October 1, 1857 (Charleston, 1857).

<sup>87</sup> *Courier*, Nov. 29, Dec. 8, 24, 1855, Jan. 12, 23, 1856; Committee of the Mechanic Society to Miles, Jan. 26, 1856, Miles MSS.



to win the election by a sizeable majority.<sup>88</sup> As he moved steadily along the path of reform, however, opposition arose. With the approach of the next city election, F. D. Richardson, the defeated candidate of 1855, launched against his so-called extravagance a bitter attack, made the more formidable by the increased city taxes and the depression of 1857. Ultimately the mayoral campaign of that year resolved itself into a test of the administration. It was generally understood that the defeat of Charles Macbeth by Richardson would result in a reversal of Miles's progressive policies.<sup>89</sup>

The returns of the votes showed that his administration was by no means universally approved, for Macbeth won by only a slight majority. The upper wards, formerly known as the Neck, voted against him almost two to one, but the lower wards, the older and wealthier part of the city, supported him with a sizeable majority.<sup>90</sup>

As Miles left the mayor's office to assume his new duties in the Congress, his council adopted the following resolutions, which attest his success as a mayor:

. . . at a moment when our official relations are about to be dissolved, our hearts spontaneously turn, in the fulness of our feelings, to that distinguished and inestimable gentleman, our Mayor and Chief. He is the centre of whatever is reputable, excellent and wise in this administration, for he has been to us a leader, both by precept and example. Always at his post, persevering, patient and cheerful in labor, calm, prudent and sagacious in council, urbane, conciliatory and impartial in the chair, inflexible and fearless in the discharge of duty; and, above all, frank, sincere, and transparent as the day, and sternly just between all men, at all times, and in all circumstances, *he possesses our abiding confidence, our profound respect, and our highest regard.* William Porcher Miles has administered the government of this city in the Council Chamber, and in all its departments, with ability, fidelity, and integrity.<sup>91</sup>

<sup>88</sup> *Courier*, Sept. 2, 4, Oct. 9, 11, 13, 16, 1856. Miles's "friends and supporters in town" felt that he should not resign the mayoralty, for he was "pledged to them," (Trescott to Miles, Dec. 29, 1856, Miles MSS.). He continued to serve until the end of his term. From Manchester, England, Gourdin wrote: "The condition of our municipal affairs renders it essential that our chief shall be a man who will wield the influence of his office with a view, exclusively, to the public interests, and not to the maintenance of his own. . . . I think that you have been the man for the times and the requirements of our city, and should a politician or a placeman be your successor the reforms already commenced and those contemplated we may be compelled to abandon." (Gourdin to Miles, Nov. 7, 1856, Miles MSS.).

<sup>89</sup> *Courier*, Aug. 22, Sept. 26, Oct. 15, 23, 26, 28, 30, 31, Nov. 2-4, 1857.

<sup>90</sup> *Ibid.*, Nov. 6, 1857.

<sup>91</sup> Proceedings of Council, *ibid.*, Nov. 7, 1857. Alfred Huger wrote to Miles: "I bring you my poor offering in a manner, which is at variance with courtly parlance! for my congratulations are *not* on your promotion to high-places! but on the termination and results of your *late* brilliant administration!! Your efforts have been triumphant from beginning to end!" (Nov. 9, 1857, Miles MSS.); see Harleston to Miles, Nov. 6, 1857, Miles to Harleston, Nov. 7, 1857, Miles MSS.

## SALIENT ATTRIBUTES OF BODIN'S THEORY OF SOVEREIGNTY

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In an intensive study of the institutions and political theory of the sixteenth century, the writer discovered that some of the interpreters of Bodin were inclined to close their ears to the heavy tread of historical evidence and to scream out in a chorus of lamentations about the fatal inconsistencies in his political theory. As a result, the study was extended to a more complete analysis of Bodin's idea with an emphasis upon his *La République*<sup>1</sup> (appearing first in 1576), which constitutes the chief source for the present investigation. The present paper, however, is not a short cut to any comparative and critical survey of Bodin's theory of sovereignty, and is designed only as a partial observation of the unfolding of the clouds of his heavenly city of law.

The first comprehensive statement of Bodin's theory of state was set forth in his *Methodus ad Facilem Historiarum Cognitionem* (first published in 1566) which was one of the early manuals on historical methodology. Although this work did not mark a radical departure from the medieval conception of control over administration and interpretation of law, it did constitute a fairly definite phase in the evolution of his thesis. Ten years later, however, he elaborated his very definitive conclusions in the famous *République*, with which we are essentially concerned in this study. And, finally, in the Latin version of 1586, he expounded the matured form of this theory in the statement that "Sovereignty is supreme power over citizens and subjects free of the laws."<sup>2</sup>

These prefatory remarks are merely introductory to the main thesis of this paper, the purpose of which is to present the salient conceptions of Bodin's theory of sovereignty as set forth in his *La République*. Its intellectual frontiers extend to the total essence of Bodin's theory only in so far as it is related to his theory of the state. And, certainly, it is not designed as a comparative study of the modern concept of sovereignty. Within these limitations, the writer is concerned primarily with the statement and the interpretation in the light of the specifications and limitations of the intellectual

<sup>1</sup> In 1606 Richard Knolles made an English translation of Bodin's work, which is a rather incomplete paraphrase of his ideas.

<sup>2</sup> In this "Majestas est summa in cives ac subditos legibusque soluta potestas," Bodin recognized that "legibusque soluta," "free from the laws," falls within the general pattern of the fundamental rules drawn from the law of God, from the law of nature, and from ancient custom of the nation.



climate under which this great French political philosopher expounded this new and far-reaching theory. In avoiding the encyclopedic proportions of the total perspective, he does not plan *ex cathedra* judgments which lie beyond the restrictive limits of the investigation.

At the very beginning of his famous eighth chapter of the first book of his *Six Livres de la République*, Jean Bodin marked out the general frontiers of his theory of sovereignty as "la puissance absolue & perpetuelle d'une République . . ." <sup>1</sup> In the tenth chapter of the same book, he rounded out his definition of its scope and nature as "la puissance de donner la loy a tous en general, & chacun en particulier . . ." Reducing to English generalization, Bodin expressed this classical form of sovereignty in the terms of the "absolute and perpetual power of the Republic to give laws to all citizens generally and severally." This law-making authority constitutes the salient attribute of "the true marks of sovereignty," and differs radically from the ancient theory of *supremacy* and the medieval idea of *dominion*.

For Bodin the king was primarily a law-giver and his cardinal function was that of "finding and declaring law." This ramification of law is a conception that is very difficult for us to understand when legislation constitutes the daily process of government in the crisis state. Our total conceptions of the meaning and role of "government," of "executive," and of "legislative" has been drastically altered from that of the medieval mentality that Bodin incorporated in this cardinal concept of sovereign power, which is not negative but life-giving in its essential essence.

In addition to this primary law-making power, Bodin listed other significant "marks and rights" of sovereignty, which constitute part and parcel of the total governmental relationships in this new system. Appreciating fully the role of war as an "instrument of policy" in the life of the state, he placed next "the power and authority to declare war and to make peace." Having made a historical and comparative study of the prince's power to make war in ancient Greece, Rome, and other countries, he definitely concluded that this was one of the first and most important attributes of the sovereign prince.<sup>2</sup> Any close analysis of this "mark of sovereignty" as applied to Rome reveals again that he is thinking in the terms of a Republican Rome,

<sup>1</sup> J. Bodin, *Six Livres de la République* (Paris, 1583), p. 121.

<sup>2</sup> *Ibid.*, p. 224.

<sup>3</sup> *Ibid.*, p. 222 gives this "power" first rank among his "vrayes marques de la souverainete."

<sup>4</sup> For this "Finding and Declaring Law," cf. George H. Sabine, *A History of Political Theory* (New York, 1937), pp. 203-207.

<sup>5</sup> J. Bodin, *op. cit.*, p. 224, "La seconde marque de maieste."

<sup>6</sup> *Ibid.*, pp. 224-228, he passes in review historical instances.

in which the nature and the scope of the *imperium* and *potestas* are the product of the *consent of the populus*.<sup>9</sup>

Basing his conclusion on Roman precedent, he allocated "The creating and appointing of magistrates" the position of third place in his list of the marks and rights of sovereignty. Reviewing the history of Republican Rome, Aristotle's *Politics*, and the history of France, especially in early modern times, he placed this attribute of the sovereign prince high in the list of the marks that are determinants in the final statement of the total will of the state in its supreme law of the land.<sup>10</sup>

Under his fourth mark of sovereignty, Bodin placed "the authority of last resort," which "is and always will be one of the principal rights of sovereignty."<sup>11</sup> Although at first glance, one might arrive at the conclusion that "absolute" authority has been conferred upon the sovereign authority the idea is not expressed or implied in the present sense of the term. Also, he must overlook Bodin's own statement in which he further elaborated the general nature of this power by stating that "la loy Valeria non seulement le dernier ressort fut referé au peuple ains aussie l'appel."<sup>12</sup>

"The granting of pardons and reprieves to duly convicted persons with the exception of those against God, for what is death by the law of God ought not to be pardoned by the Prince," constitutes the next mark of this system of law. In this "fifth mark of sovereignty," he again reverted to the general Roman frame of reference with the exception that he drew from the period of the Empire, and cited the fact that Emperor Trajan possessed such power in that immortal period. At another place, he elaborated this power in these words: "the final degree is the power of life and death, that is to say, the power of condemning to death or pardoning him who has merited death, which is the highest mark of sovereignty and power of the sovereign."<sup>13</sup>

Among the "grand marks and rights of sovereignty," Bodin ranked that of "liege loyalty and homage" very high.<sup>14</sup> Although he placed it among the salient rights and marks, he entered into no general discussion of this right, which had been one of the very outstanding attributes when *Rex* and *Dominus* were intertwined in power and relations in the heyday of the feudal period. With the appearance of the modern state, this relationship was breaking up, and it did not

<sup>9</sup> *Ibid.*, p. 227, in which he enters into this phase of the discussion.

<sup>10</sup> *Ibid.*, p. 228.

<sup>11</sup> *Ibid.*, p. 231.

<sup>12</sup> *Ibid.*

<sup>13</sup> *Ibid.*, p. 431.

<sup>14</sup> *Ibid.*, p. 242.



command the attention of a theorist who was essentially interested in the elaboration of a system of law for the new national monarchy.

"The right to coin money" formed one of the sovereign rights of Bodin's sovereign power.<sup>18</sup> Citing the significant role of finance in the history of Rome, he allocated this right a pre-eminent position. In the history of the nations, as well as that of the "death dance" of the democracies in the "breaking of the nations," the "battle of the financial standards" have played the predominant role in the modern capitalistic society. Recognizing its significant and potent relation in any system of law, Bodin gave finance a paramount position in the assuring of prosperity and security of the new national state.

"The fixing of weights and measures" constituted another of these salient powers of the sovereign authority. Stating that this right is equally as important as that of coining money, he cited the history of France, and placed this power among the significant marks of his new theory of the state.<sup>19</sup>

In an elaboration of the other powers of the sovereign, he added the power of "levying taxes and exempting from the same."<sup>20</sup> In his study of its history in the case of France, he called attention to the right of the *Parlement* to act as judge in the matter. This limitation, of necessity, prevented the sovereign's assumption of absolutistic authority in this very significant matter.

"Exercising the right of marque and reprisal belongs to the sovereign prince. This power has been exercised by the sovereign authority in the past,"<sup>21</sup> and Bodin concluded that it was an essential mark of sovereign power.

Among these salient attributes, Bodin placed "the compulsory use of the official language." This right was negative in that it "is one of the true marks of sovereignty to prevent the subjects from changing the language."<sup>22</sup> He called attention to the fact that the Romans had utilized this agency of power most successfully in assuring a certain unity within the kingdom.

"The dispensing at times with the laws, customs, and matters of conscience" was a sovereign power.<sup>23</sup> This right fell within the power of France to regulate the general administration of the affairs of the Catholic Church in accordance with the provisions of the Pragmatic Sanction of Bourges of 1438 and the Concordat of 1516, both of

<sup>18</sup> *Ibid.*

<sup>19</sup> *Ibid.*, p. 244.

<sup>20</sup> *Ibid.*

<sup>21</sup> *Ibid.*, p. 248.

<sup>22</sup> *Ibid.*, p. 249.

<sup>23</sup> *Ibid.*

which marked out the state's capacity to regulate within specifications, and was called the "Gallican Liberties." In the performance of these rights and duties, the sovereign power is limited by the specifications of the law of God.<sup>21</sup>

To the characteristic rights of sovereignty, Bodin added that of the "right of the exclusive use of the title of majesty." He specified that "the Prince shall have the exclusive right 'user du tiltre de Maiesté.'" Although this is not listed among the "marks and rights," he referred to it later as one of the attributes of sovereignty.<sup>22</sup>

Some critics of Bodin's political theory have employed a paucity of factual observation in arriving at their nonanalytical correlations<sup>23</sup> with respect to his "absolute power." Taking "absolute" as the key to his whole idealism, they have taken refuge in Plato's cave and have pointed their fingers at the shadows of the prince whose purpose had been poisoned by the darts of a mind trained in the grammar of politics of power. Without adequate definition and specification, they have created a hierarchical quality of absolutism, and assigned it first place in his theory of the state. In doing this, they have not called attention to the essential difference between the meaning of "absolute" and the more definite "arbitrary" power;<sup>24</sup> and, they have shrouded themselves in oracular ambiguities in arriving at glittering generalities.

In the case of this "absolute power," Bodin placed immediate limitations upon its general nature and scope.<sup>25</sup> In doing this, he stated that "the people and the lords of a Republic are empowered to give purely and simply sovereign and perpetual power *a chacun pour disposer des biens, des personnes, & tout l'estate a son plaisir.*"<sup>26</sup> Within the limits here suggested, he imposed a very definite limitation upon sovereign power. In a further elaboration of this same idea, he stated that "this power is absolute and sovereign, and it is limited only by the law of God and the law of nature."<sup>27</sup> Seated

<sup>21</sup> The statement concludes "mais le Prince le peut faire si la loy de Dieu n'y est expressé."

<sup>22</sup> J. Bodin, *op. cit.*, p. 214.

<sup>23</sup> For "nonanalytical correlations," cf. Glenn Negley, *The Organization of Knowledge: An Introduction to Philosophical Analysis* (New York, 1942), p. 244.

<sup>24</sup> See Charles Howard McIlwain, *The Growth of Political Thought in the West* (New York, 1932), pp. 364-365 for the most scholarly distinction that is so necessary in any definitive study of the significant relationships of the aspects of sovereignty.

<sup>25</sup> J. Bodin, *op. cit.*, pp. 128, 129, 133, 149, 150 and 152, in which he placed the limits of the law of God, the law of nature, and the general conventions of the country.

<sup>26</sup> *Ibid.*, p. 128.

<sup>27</sup> *Ibid.*, p. 129.



at the revolving wheel of man's hope, he spun his pattern out of the threads of its grand design of law.

In a further discussion of the "puissance absolue," Bodin placed a very definite restriction upon this sovereign power in making it subject "to the laws of the country that he had sworn to protect."<sup>28</sup> These specifications he added to the ordinary limitations of the law of God and the law of nature that he included in so many of his statements. These restrictions were placed upon the "princes & seigneuries souveraines" in the performance of their duties.<sup>29</sup>

Bodin set the very definite restriction upon the sovereign power by making the ruler subject to the specifications of the coronation oath.<sup>30</sup> In his general discussion of the significance of this oath, he emphasized its significance and its relation to the development of kingship in both the case of kings as well as that of emperors. In this, he at least implied Isidore of Seville's concept of the "ruler's ruling by ruling" and his "failure to rule by not ruling"<sup>31</sup> in accordance with the law of nature and of God, a generalization of a medieval concept that prevailed until the statement of the modern theory of tyrannicide in the sixteenth century.<sup>32</sup>

In the cardinal capacity of issuing edicts,<sup>33</sup> the sovereign authority is limited by the law of God, which indeed was not sufficient to prevent the ruler's being absolute and at times arbitrary, for there was no means by which the ruler could be forced to adhere to the eternal principles of the law of God. It is very difficult, however, for us in the twentieth century to appreciate the binding force and the significance of the Christian ethic as practiced in the "Age of Faith," in which the mystical element played a predominant role in fashioning the thought and action of rulers and peoples. In Sorokinian ideational-idealistic terms, this supreme power became the pipeline from the infinite<sup>34</sup> to the sensate<sup>35</sup> relationship in the affairs of the state.

"All princes are subject to the law of nations, on which contracts and testaments depend."<sup>36</sup> This limitation of the "absolute power" by

<sup>28</sup> *Ibid.*, p. 133.

<sup>29</sup> *Ibid.*

<sup>30</sup> *Ibid.*, p. 136.

<sup>31</sup> Cf. R. W. & A. J. Carlyle, *A History of Medieval Political Theory in the West*, 6 vols. (London, 1927), I, 172-173, for Isidore's "Reges a regendo vocati."

<sup>32</sup> George H. Sabine, *op. cit.*, pp. 378-385, for a limited discussion of this theory.

<sup>33</sup> J. Bodin, *op. cit.*, p. 152.

<sup>34</sup> *Ibid.*, pp. 212-214, Bodin holds that the ruler is God's representative on earth.

<sup>35</sup> See Pitirim A. Sorokin, *Social and Cultural Dynamics*, 4 vols. (Cincinnati, 1937-1941), II, 7-14, for sensate pattern.

<sup>36</sup> J. Bodin, *op. cit.*, p. 161.

the *jus gentium* set forth a general pattern for the national sovereign, and related the nature of his fundamental law to that of the other nations. This Platonic-Roman Republican restriction provided the general compass of a statement of ideal in the modern theory of sovereignty.

An effort to effect a generalized interpretation of the "marks and rights" of Bodin's theory as set forth in *La République* transcends the capacity of mind and the limits of time and space. While this may be a deceptively simple way of reaching, in the ivory tower, solutions that prove illogical and irrational *à l'outrance*, it does provide the means for an analysis and synthesis of the dramatic decisions of this modern theory of fundamental law; which, when mated with the theory of Locke and the French *Philosophes*, produced the whispering gallery from whence reverberated the echoes of freemen of many lands. With these ends and means in mind and appreciating the semantic dangers involved, the writer will attempt a panoramic outline of the new doctrinal directions of this dynamic system of law.

1. Bodin's sovereignty is a "puissance absolue." It is distinctly a supreme power based on law and not on the force of arms. In the light of Bodin's specifications, the theory does not spell out an *Allmacht* that stands beyond the law of man and the law of God. Right is the guide, not force at the point of the pistol. In the verbalization of the present world revolution, it is supreme right and not power politics with all of its voices of destruction. It is distinctly right *versus* might, and it is very decidedly the first and not the second. It is not German Hobbesianism attempting to delude and erase from our minds the creative purposes of a thousand years of history. To limit Bodin's theory in such a manner is to read into his clear-cut theory of law the intent and purpose of Machiavelli's prince, who was created for the period of nascent nationalism.

2. Highest authority does not necessarily mean naked power and might. Living in the relativism of a *civitas terrena*, Bodin's critics have not possessed the capacity to lift their eyes and behold the intellectual perspective of Augustine's *Civitas Dei*, in which this Christian Father held that justice was the essential spirit in political association.<sup>37</sup> Victims of a simplistic analysis, they failed to establish that it is *not* the mere fact of association in the case of Bodin that makes the state, but that it is justice assured by right, a current that runs through the strain of political thought of Plato, the Stoics, and

<sup>37</sup> For his thesis that kingdoms without justice are robber-bands, cf. Charles Howard McIlwain, *op. cit.*, p. 155.



the Church Fathers, of whom Augustine was one of the very outstanding.<sup>38</sup>

3. Legalistic basis of Bodin's sovereignty. Bodin's *République* was designed for the common utility and in accordance with law. It is an association of right, a right based on religion, the law of God, and other true laws of nature, and the laws of man. It is essentially legalistic in the modern sense of the term, and it has created the "larger letters" in the egalitarian vernaculars of those giants of freedom who have written its ideal in the universal language that expresses the common belief of man. In place of the savagery of the superman or the gleam of the beast of prey, it points to the heavenly city of the dictatorship of humanity.

4. It is basically a theory of consent. On reading the pages of *La République*, one envisages the image of the Roman Republic with all of its constructive theory of government's being the product of the consent of the populus, a term that differs from the "individual" of our "popular sovereignty." This consent is continually present in his discussion of the attributes of his sovereign power, and it is outside and beyond the capacity and the will of the ruler of the state.

5. Standing at the turn from Machiavelli's political theory of *Machtpolitik* to that legally constitutional sovereign power expressed in Coke's "due process of law," Bodin pointed out the "new frontiers" of legislative power that underlie the total specifications of the modern battles in which "liberty, fraternity, and equality" have challenged and won in the long and tedious process of evolution and revolution. He clothed law with a meaning, and breathed into it the power of a living spirit that has constituted the norm of the form of "liberty under law" as men have fought and died in effecting the union of the theory of state with the natural theory of the rights of man. As such, it marked out the spacious new fields in the "ideodynamics"<sup>39</sup> of democracy, not a design for power.

6. Expressed in a verbalization of the democratic pattern, the supreme law of the land is found in the constituent body or constitution, and the executive cannot alter it. Restricted to the American form, Congress (along with the President) constitutes the supreme law-making body in effecting a system that is responsive and responsible to its general constitutional ideals and purposes. To Bodin,

<sup>38</sup> A. J. Carlyle, *op. cit.*, I, 174, holds that St. Augustine was an exception to the thesis of the Church Fathers that "the end of the State is the attainment of justice." Charles Howard McIlwain, *op. cit.*, p. 155, n. 1, states that he later modified his view.

<sup>39</sup> In a study of the place of ideologies in human affairs, Oscar Cargill, *Intellectual America; Ideas on the March* (New York, 1941), p. vii, proposes "a new word: *ideodynamics*, the descriptive study of ideologies and of the results of the forces which they exert."

however, the executive was the king and the king was the embodiment of his constitutionalism. Within his "puissance absolue," the king issued ordinances that constituted the supreme law of the land.

7. Into his whole pattern of sovereignty, Bodin breathed "justice according to law," which is merely the reduction of the Platonic "larger letters" to the "smaller letters" of "liberty under law." The theory transcends the relativistic thesis of Thrysamachus that justice is "doing good to your friends and harm to your enemies," and that it is a vice and not a virtue at all.<sup>40</sup> Bodin was not writing a leviathan for the Bourbons of the "old régime" in France.

8. Bodin's thesis is not an ironic overtone of an *Übermensch*. In the total logic and history of political theory, Bodin's doctrine cannot be developed into that of a Nietzschean superman, who is a nineteenth-century reproduction of the sixteenth-century Machiavellian prince, standing above and beyond the laws of man and God. In reading this strain into Bodin's theory, the critic limits the perspective of his findings by the employment of psychological inaccuracies of observation.

9. With a mystical sense of dedication to the dynamics of change, Bodin evolved a theory of sovereignty that has constantly provided the long-perspective illumination for those political leaders who have conceived the supreme end of government to be the charting of the course and determining the direction and speed of the current of events along the road to freedom. With a clear-eyed capacity, he marked out the general ideals and objectives that one finds written in the capitals of a declaration of independence or a declaration of the rights of man and citizen.

10. In the blending of the medieval rays of thought with respect to the power of the monarch, Bodin differentiated between the "absolute" and "despotic" ruler. Writing in the seventeenth century, Loyseau, de L'Hommeau, and Lebret emphasized the absolutistic tendencies of his thought to the exclusion of these liberal concepts drawn from medieval precedent. Accepting this interpretation, critics have established in weasel ways the finality of these conclusions, and have ascribed to him the honor of having created the all-powerful monarch.

11. In his theory of the relation of law to politics, Bodin is decidedly Thomist in that he incorporated in his theory the familiar and fundamental medieval distinction between the true king and the tyrant, an idea that found its early statement in Isidore's "Kings are such by ruling."

<sup>40</sup> See Benjamin Jowett, trans., *The Works of Plato*, 4 vols. in one (New York, 1936), "The Republic," p. 15, for the famous simile of Plato on the nature of justice.



12. Bodin's interpretation of the fundamental law is not limited by any sophisticated relativism, for his mentality is rationalistic in the broad sense of its philosophical implications. His idealism transcends a Schopenhauer's Will above Reason or a Nietzschean Will as the agent of Power. It cannot be used as the philosophical basis of a fascist order, for it is a repudiation of all the collective strains of any modern theory of the "will to power."

13. The panoramic sweep of Bodin's ideodynamics suggests Aristotle's thesis that "law is reason unaffected by desire."<sup>41</sup> This significant impartiality became the trumpet that has resounded throughout all lands and has given the signal for the new departure to those "sons of liberty" who have sought to read their destiny in the capitals of justice by the *fiat* of law. Martial and ambitious spirit did not inspire this tocsin call of the destiny of western man, for Bodin did not speak the language of Machiavelli, Marx, and Spengler, who were the polite forerunners of the twentieth-century barbarians. Happily seconded by the enlightened of the future, Bodin's sane reflections indicted the untamed forces of tyranny and animated the later tender respect for constitutionalism. Transcending servile imitation, this epistemic rationalism outlined the new political *Weltanschauung*.

14. Bodin wrote a grammar of republican power, not only for the latter part of the sixteenth century, but he inscribed on the horizon of coming ages the principles to which men dedicate themselves as they fight and die in the Second World War that will ultimately erase Machiavellian-Nietzschean fascism, and create the city of mankind in which the collective mentalities of the living will have the opportunity of identifying the democratic order with a Bodinian system of law and justice. Recognizing the full implications and meaning of this system of law, they will be able to face the calculable future with its bleak and arduous perspective and behold that city in that finest hour in all the history of all the nations of the world. Toynbee's "Savior with the Sword"<sup>42</sup> will have been stripped of all his brutal power; and, in place of a *Führer Prinzip*, freemen will create the president of mankind in the universal parliament, and inscribe on its walls in the esperanto of freedom the dynamic *élan vital* of liberty under law, the legalistic basis of which is found in the transcendent idealism of this great political philosopher.

<sup>41</sup> For the details of this concept, cf. Richard McKeon, *The Basic Works of Aristotle* (New York, 1941), p. 1202.

<sup>42</sup> For "the Savior with the Sword," see Arnold J. Toynbee, *A Study of History*, 6 vols. (London, 1934), VI, 178-213.

SOURCES FOR SOUTH CAROLINA HISTORY IN THE  
NATION'S CAPITAL<sup>1</sup>MAXCY ROBSON DICKSON  
*The National Archives*

Will Rogers' comment about Massachusetts is certainly applicable to the nation's capital: It is mangy with history. For here are to be found excellent collections of material for students in all fields of history and particularly of American history. Besides the Library of Congress and the chief depository of Federal records, The National Archives, there are many specialized collections which contain some of the most valuable books and records in existence. And today even in this period of world crisis students may still be seen examining ancient tomes and priceless records in order to gain material for proposed papers, theses and newspaper articles.

Our chief interest at this time is devoted to those collections which might provide material for the student of South Carolina history. Before considering the larger collections in the nation's capital it should be pointed out that such libraries as those of the Colonial Dames, the Sons of the American Revolution and the Daughters of the American Revolution contain many works of interest to the South Carolina student. There are, however, no records or books in these libraries which cannot be found in some library or many libraries in the State itself. They are of interest because of material that they possess for the genealogist and for the South Carolinian dwelling in the District of Columbia.

The Division of Manuscripts of the Library of Congress, which is well known to all students of history, possesses many collections pertinent to the history of the State. However, "for the duration" they are inaccessible; they have been packed up in eighteen hundred wooden boxes and shipped "into the interior." It is well, though, to point out a few items of interest in the Division. The Library has in its possession the excellent Pinckney collection for which it paid thirty-five thousand dollars. It also has the Alexander H. Stephens collection in which may be found much that relates to the history

<sup>1</sup> Use has been made of the following articles: Manuscript of article on 'The National Archives prepared by Herbert E. Angel, Assistant to the Archivist of the United States, October 23, 1939; manuscript of article entitled, "The Nature and Use of Materials in The National Archives for Wyoming History," by Miss Marian Rice of the Division of Research and Records Description; manuscript of article entitled "Material at the National Archives relating to Florida," by Miss Elizabeth Drewry of the Office of Reference Service; Wayne C. Grover, War Department Archives, "Research Facilities and Materials at The National Archives," *American Political Science Review* (Philadelphia), XXXIV, 1940, 976-983.



of the State, and it should also be added that besides the papers of the many South Carolinians in the custody of the Division, there is much that relates to the history of the State in the other papers to be found there.<sup>2</sup>

This brings us to one of the newest of the permanent Government agencies—The National Archives—for here are maintained many records pertaining to state and local history that have not yet been used. Before we consider some of the collections which are valuable for the South Carolina historian, let us review for a moment something of the history, purpose, and work of this agency.

From the time of the establishment of the Federal Government there was agitation for an institution to care for the archives and to save them from damage and loss through fire, ill use and many moves. Prior to 1934 records now in the building were kept in some 235 places of deposit in the District. Records have been found floating on the Potomac as that river has reached into some of the garages and warehouses where they have been deposited. It had been a policy of some departments to sell records which had been published after the publications were issued. Certain Government officials with keen interest in stamps or signatures have mutilated some of the documents, and many officials in taking their so-called personal records have stripped the files of all that relate to some special work. In spite of these grievous faults it was not until 1934 that the efforts for the establishment of a national archives were successful and the present institution was created.

According to the Archivist of the United States, the purpose of The National Archives is to concentrate and preserve the non-current records of the Federal Government having permanent or long time administrative value, or historical interest; and for the administration of such records so as to facilitate their use in the business of the government and in the service of scholarship. Also, an additional important function is to appraise and evaluate records in order that great quantities of worthless records may not be maintained indefinitely and that records of interest and value will be saved from destruction.

Preliminary surveys indicate the existence of nearly three million cubic feet or over five million linear feet of Government records in some sixty-five hundred rooms in the District of Columbia. According to some estimates, records occupy from twenty to thirty per cent of the space now used by Government agencies in Wash-

<sup>2</sup> A catalog of the manuscripts can be found in the *Handbook of Manuscripts* published by the Division in 1918. This has been brought up to date by lists which have been published in the *Annual Reports* of the American Historical Association for 1931 and 1938.

ington. Another investigation found over five million linear feet of records in the custody of nearly thirty thousand Government agencies or their sub-divisions in other parts of the country. To date, over three hundred fifty thousand cubic feet of records have been brought together under the roof of The National Archives Building.

This great quantity of records immediately brings to mind the space problem which has so long confronted the agencies of the Government. One of the most important solutions for this problem that has been proposed is the microfilming of records. While this is recognized as "a valuable aid" in the preservation of records and in the reduction of space it is not the total answer to the records problem. Records must be carefully arranged and carefully indexed in order to be microfilmed; the physical condition, that is, size and shape, texture and color all add to the difficulties of this work. Therefore, before a general microfilming program can be adopted by any agency, it is necessary to consider carefully the cost and the time necessary to make the records available for the project.

Records have been received from all of the ten executive departments, some fifty-four agencies, commissions and boards, four District courts, and the United States Senate. They have been found in various conditions. Those of the State Department, for example, are well organized, and easily used. Those of other executive departments and independent agencies are not so well arranged and require much work before they will be properly acceptable for the Government or for students of history. Much work in the arrangement and description of records has been done. *A Guide to the Material in the National Archives* was published in 1940 and is supplemented by quarterly statements of later accessions. In this way anyone in any part of the country may gather information concerning the period and type of record located there. Although the Archives does not have in its possession the records of state and local governments nor of non-governmental organizations, it has much material that relates to the history of these organizations because of the relationship of the Federal Government to them. South Carolina, being an original state, may not have as many records as those for states which came into the Union from the various territories, but its long history as a part of the Union is evident from the many collections in the Archives.

Another problem confronting the student of history is to be found in the multitudinous character of Federal archives. According to the *Manual*,<sup>3</sup> records of the Government may consist of all

<sup>3</sup> *Manual of Information about The National Archives for Government Officials* (Washington, 1941), p. 1.



written or printed papers, letters, documents, books, maps, and plans, and all motion pictures, other photographs, sound recordings, and other records, in whatsoever form, made or received in pursuance of Federal law or in connection with the transaction of public business by an agency of the Federal Government and preserved or required to be preserved by that agency for record purposes. The variety of Federal records is almost infinite. Among them will be found letters received and copies of letters sent; accounts, receipts, and even canceled checks; messages, proclamations, orders, rules and regulations; land grants, surveys, and reports of explorations; census schedules and scientific data; statistical tables and compilations; reports of departments, bureaus, commissions, and officials; treaties, conventions, and records of diplomatic negotiations; laws, legislative journals, and minutes and reports of committees; petitions and resolutions; and court records. The form of a document, whether it is handwritten, typewritten, processed, or printed, whether it is textual or pictorial, is never the determining factor in deciding whether it has a record character. The primary tests are whether the document is made or received in pursuance of law or in connection with the transaction of public business by a Government agency and whether the document is preserved or required to be preserved by a Government for record purposes.

In order for the student to obtain assistance in finding out what records are pertinent to his special interest the Office of Reference Service has been established to bring him in contact with the Records Divisions which have in their custody the various collections of the Federal Government. Through this Office records may be obtained for use in the central search room or information may be supplied upon written inquiry. As a research student I have had occasion to make use of this service over a period of several years both for the purpose of using records and for obtaining special information not easily found.

A few examples of records of special interest to South Carolinians will show the possibilities for research in the many collections in The National Archives. The Treasury Department Archives has in its custody records of the former United States District Tax Commission for the District of South Carolina, 1862-1899, consisting of correspondence, accounting records, claims papers, maps and other records pertaining to the administration of the direct tax of 1861; the Charleston Customs House records, 1818-1930, and the Beaufort Customs House records, 1826-1934; and the First Special Agency records, 1861-1865. The Navy Department Archives has in its custody the valuable Matthew Fontaine Maury collection which contains much correspondence with prominent South Carolinians, 1840-1860. Also, the Navy Department collection contains all of the

records relating to the establishment and development of the Charleston Navy Yard. The Veterans' Administration Archives has all of the case files of those veterans on the basis of whose service pension payments are no longer being paid. These records contain invaluable information for the genealogist and the historian. It also has all of the papers relating to bounty land applications. These records are supplemented by the records of the General Land Office in the custody of the Interior Department Archives, where one may find the papers relating to the actual issuance of this land up to the close of bounty land grants in 1855. The State Department Archives contains many collections which are pertinent to the history of the State. For example, there are miscellaneous letters, 1789-1906, composed of correspondence to and from officials of various States; the Constitution papers, 1787-1820, relating to the ratification of the Constitution and the amendments; applications for office, 1797-1906; electoral papers 1888-1932; letters from Governors of States, 1790-1812; and diplomatic and consular post records, 1789-1906. Other groups of records of special interest to the state and local historian can be found in the collections of independent agencies, particularly those established during war time. Thus, the Food Administration contains the file of the South Carolina Food Administration which was under the direction of William Elliott of Columbia.<sup>4</sup> The records of the United States Housing Corporation contain material relating to housing problems in Charleston, 1917-1918.<sup>5</sup>

These are only a few examples of the rich resources for South Carolina history that may be found in The National Archives. Each and every department's archives contains some collection or collections which have much valuable material for state and local history. As the records are placed in better order and as more finding media are prepared they become more and more important to the student of history. Their use for historical research opens many new possibilities for the student of state and local history.

<sup>4</sup>The State records of the United States Fuel Administration have been lost or destroyed and are not now in existence.

<sup>5</sup>The information on these record groups was furnished to me by Mr. Lyle Holverstott of the Treasury Department Archives; Dr. Neil Franklin of Veterans' Administration Archives; Mr. Herman Kahn, Chief, Interior Department Archives; Dr. Almon R. Wright, Acting Chief, State Department Archives; and Miss Lillie Bontz and Mr. James W. Ball of Independent Agencies Archives.



## CONSTITUTION

## I

The name of this organization shall be The South Carolina Historical Association.

## II

The objects of the Association shall be to promote historical studies in the State of South Carolina; to bring about a closer relationship among persons living in this State who are interested in history; and to encourage the preservation of historical records.

## III

Any person approved by the executive committee may become a member by paying \$2.00 and after the first year may continue a member by paying an annual fee of \$2.00.

## IV

The officers shall be a president, a vice-president, and a secretary and treasurer who shall be elected by ballot at each regular annual meeting. A list of nominations shall be presented by the executive committee, but nominations from the floor may be made. The officers shall have the duties and perform the functions customarily attached to their respective offices with such others as may from time to time be prescribed.

## V

There shall be an executive committee made up of the officers and of two other members elected by ballot for a term of three years; at the first election, however, one shall be elected for two years. Vacancies shall be filled by election in the same manner at the annual meeting following their occurrence. Until such time they shall be filled by appointment by the president. The duties of the executive committee shall be to fix the date and place of the annual meeting, to attend to the publication of the proceedings of the Association, to prepare a program for the annual meetings, to prepare a list of nominations for the officers of the Association as provided in Article IV, and such other duties as may be from time to time assigned to them by the Association. There shall be such other committees as the president may appoint, or be instructed to appoint, by resolution of the Association.

## VI

There shall be an annual meeting of the Association at the time and place appointed by the executive committee.

## VII

The Association shall publish annually its proceedings to be known

as *The Proceedings of the South Carolina Historical Association*. It shall contain the constitution, by-laws, and minutes of the annual meeting, together with such papers and documents selected by the executive committee as may be published without incurring a deficit. It is understood that all papers read at the annual meeting become the property of the Association except as otherwise may be provided by the executive committee. The executive committee shall annually elect an editor of the *Proceedings*. He shall have authority to appoint an associate editor and shall be a member of the executive committee, but without vote.

#### VIII

This constitution may be amended by a two-thirds vote of the members present at the annual business meeting.



## MEMBERS OF THE ASSOCIATION

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Greenwood High School	
BARNWELL, ROBERT W., JR.....	Charleston, S. C.
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CAUTHEN, CHARLES E.....	Columbia, S. C.
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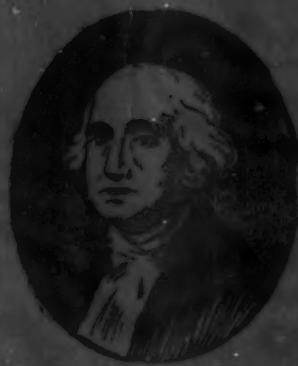






## *Our Nation...*

For many years the South Carolina Historical Association has been active in keeping alive and before the public important historical events of South Carolina and the nation. Practically the entire membership of the association is composed of professors in our colleges and teachers in our public schools, and the information they gain from research, study and contact with the membership is reflected back in their classrooms.



At this critical time in the history of our nation it is incumbent on all of us, whether in the armed forces of our country or in civilian life, to use every effort and resource to maintain our standard of living and our position as the foremost nation of the world.

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